



# Judicature (Northern Ireland) Act 1978

## 1978 CHAPTER 23

An Act to make provision with respect to the constitution, jurisdiction and proceedings of the Supreme Court of Judicature of Northern Ireland; to establish as part of that Court a Crown Court to try indictments and exercise other jurisdiction in Northern Ireland in relation to criminal cases and to abolish courts of assize there and deal with their jurisdiction; to make, as respects Northern Ireland, provision for the administration of courts; to provide for certain rules of law in judicial matters in Northern Ireland and to amend the law regarding county courts, magistrates' courts and justices of the peace in Northern Ireland and otherwise with respect to the administration of justice there. [30th June 1978]

### Modifications etc. (not altering text)

- C1 Act: Power to amend conferred (1.12.2000) by S.I. 1999/3147 (N.I. 11), [art. 40\(1\)\(2\)\(g\)](#); S.R. 2000/133, [art. 2\(3\)\(d\)](#), [Sch. Pt. IV](#)

### Commencement Information

- II Act not in force at Royal Assent see [s. 123\(2\)\(3\)\(4\)](#); Act wholly in force at 1.9.1979.

## PART I

### CONSTITUTION OF THE SUPREME COURT OF JUDICATURE OF NORTHERN IRELAND

#### 1 The Supreme Court.

There shall be a Supreme Court of Judicature of Northern Ireland (in this Act referred to as "the Supreme Court") which shall consist of—

- (a) Her Majesty's High Court of Justice in Northern Ireland (in this Act referred to as "the High Court");
- (b) Her Majesty's Court of Appeal in Northern Ireland (in this Act referred to as "the Court of Appeal"); and

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**Changes to legislation:** *Judicature (Northern Ireland) Act 1978 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) Her Majesty’s Crown Court in Northern Ireland (in this Act referred to as “the Crown Court”),

with such jurisdiction as is respectively conferred on those courts by this Act or by any other statutory provision.

## 2 The High Court.

- (1) The High Court shall consist of the Lord Chief Justice of Northern Ireland (in this Act referred to as “the Lord Chief Justice”)<sup>F1</sup>. . . and [<sup>F2</sup>not more than ten puisne judges] who shall be styled “ Judges of the High Court.”
- (2) All the judges of the High Court shall, save as in this Act otherwise expressly provided, have in all respects equal jurisdiction and shall be addressed in the manner in which judges of the High Court of Justice in Northern Ireland were customarily addressed heretofore.
- (3) Her Majesty may by Order in Council from time to time amend subsection (1) so as to vary the maximum number of puisne judges.
- (4) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been approved by resolution of each House of Parliament.

### Textual Amendments

- F1** Words in s. 2(1) repealed (3.4.2006) by 2002 c. 26, ss. 86, 87(1), **Sch. 13**; S.R. 2006/124, **art. 2**, Sch. para. 11(f)
- F2** Words in s. 2(1) substituted (28.7.2004) by **The Maximum Number of Judges (Northern Ireland) Order 2004 (S.I. 2004/1985)**, arts. 1, 2

### Modifications etc. (not altering text)

- C2** S. 2(1) modified (9.11.1998) by 1998 c. 42, **ss. 18(4)(c)**, 22(3), (with ss. 7(8), 22(5))
- S. 2(1) modified (27.9.1999) by 1999 c. 22, **ss. 68(3)(c)**, 108(3) (with Sch. 14 para. 7(2))

## 3 The Court of Appeal.

- (1) The Court of Appeal shall consist of the Lord Chief Justice<sup>F3</sup>. . . and three other judges who shall be styled “Lords Justices of Appeal”.
- (2) Every judge of the High Court shall be a judge of the Court of Appeal for the purposes of its jurisdiction in a criminal cause or matter and for those purposes shall have all the jurisdiction of a judge of the Court of Appeal.
- (3) All the judges of the Court of Appeal shall, save as in this Act otherwise expressly provided, have in all respects equal jurisdiction and shall be addressed in the manner in which judges of the Court of Appeal in Northern Ireland were customarily addressed heretofore.
- (4) Her Majesty may by Order in Council from time to time amend subsection (1) so as to vary the number of Lords Justices of Appeal.

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(5) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been approved by resolution of each House of Parliament.

[<sup>F4</sup>(6) Her Majesty may by Order in Council from time to time create divisions or additional divisions of the Court of Appeal or provide that any division be abolished; and any such Order in Council may contain such provision as may appear to Her Majesty to be necessary or proper for that purpose and may amend or repeal any statutory provision (including any provision of this Act) so far as it appears to Her Majesty to be necessary or expedient to do so in consequence of the Order.]

#### Textual Amendments

**F3** Words in s. 3(1) repealed (3.4.2006) by 2002 c. 26, ss. 86, 87(1), **Sch. 13**; S.R. 2006/124, **art. 2**, Sch. para. 11(f)

**F4** S. 3(6) added by Administration of Justice Act 1982 (c. 53, SIF 38), s. 70, **Sch. 8 para. 1**

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

**C3** S. 3(1) modified (9.11.1998) by 1998 c. 42, **ss. 18(4)(c), 22(3)**, (with ss. 7(8), 22(5))

S. 3(1) modified (27.9.1999) by 1999 c. 22, **ss. 68(3)(C), 108(3)** (with Sch. 14 para. 7(2))

## 4 The Crown Court.

(1) There shall be a Crown Court in Northern Ireland whose jurisdiction shall be exercisable by the Lord Chief Justice<sup>F5</sup> . . . , any judge of the High Court or the Court of Appeal or any county court judge.

(2) The persons mentioned in subsection (1) shall, when exercising the jurisdiction of the Crown Court, be judges of the Crown Court but a county court judge shall not, except when exercising such jurisdiction, be deemed to be a judge of the Supreme Court.

(3) In any statutory provision relating to the Crown Court (including a provision of this Act) references to a judge of the High Court shall include references to a judge of the Court of Appeal.

#### Textual Amendments

**F5** Words in s. 4(1) repealed (3.4.2006) by 2002 c. 26, ss. 86, 87(1), **Sch. 13**; S.R. 2006/124, **art. 2**, Sch.

## 5 Divisions of the High Court.

(1) There shall be three divisions of the High Court, namely—

- (a) the Chancery Division;
- (b) the Queen's Bench Division; and
- (c) the Family Division.

(2) Her Majesty may by Order in Council from time to time create additional divisions of the High Court or provide that any division be abolished and any such Order in Council may contain such provision as may be necessary or proper for that purpose.

(3) A judge of the High Court may sit in any division.

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- (4) Without prejudice to any statutory provision relating to or affecting the distribution of business in the High Court, all jurisdiction vested in the High Court shall belong to all the divisions alike.

## 6 Judges of one court empowered to assist another.

- (1) A Lord Justice of Appeal may at any time at the request of the Lord Chief Justice sit and act as a judge of the High Court.
- (2) A judge of the High Court shall, if requested to do so by the Lord Chief Justice, sit and act as a judge of the Court of Appeal when that court is exercising jurisdiction other than jurisdiction in a criminal cause or matter.

## 7 Further assistance for transaction of judicial business.

- (1) A person who not being a judge of the High Court or the Court of Appeal—
- (a) holds or has held the office of a Lord of Appeal in Ordinary and before his appointment to that office [<sup>F6</sup>was a member of the Bar of Northern Ireland, or a solicitor of the Supreme Court, of at least ten years' standing]; or
  - (b) has held the office of a judge of the High Court or the Court of Appeal, may [<sup>F7</sup>at anytime] at the request of the [<sup>F8</sup>Lord Chief Justice] sit and act as a judge of the High Court or the Court of Appeal [<sup>F9</sup>at any time on or before the day on which he attains the age of seventy-five.]
- (2) A county court judge shall, if requested to do so by the [<sup>F8</sup>Lord Chief Justice], sit and act as a judge of the High Court.
- (3) If it appears to the Lord Chancellor that it is expedient as a temporary measure to make an appointment under this subsection in order to facilitate the disposal of business in the High Court or the Crown Court he may appoint a person qualified for appointment as a judge of the High Court to sit and act as a judge of the High Court.
- (4) For any period during which a person who does not hold office as a Lord of Appeal in Ordinary or as a county court judge sits and acts under this section there may be paid to him such remuneration and allowances as the Lord Chancellor may, with the concurrence of the Minister for the Civil Service, determine.
- [<sup>F10</sup>(5) The Lord Chief Justice may nominate any of the following to exercise his functions under this section—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

### Textual Amendments

- F6** Words in s. 7(1) substituted (15.10.2002) by 2002 c. 26, s. 18(2); S.R. 2002/319, art. 2, Sch.
- F7** Words in s. 7(1) repealed (31.3.1995) by 1993 c. 8, ss. 26, 31, Sch. 6 para. 7(a), Sch. 9 (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631 art. 2
- F8** Words in s. 7(1)(2) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 23(2); S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(a)
- F9** Words in s. 7(1) added (31.3.1995) by 1993 c. 8, ss. 26, 31(2), Sch. 6 para. 7(b) (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631 art. 2

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**F10** S. 7(5) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), **Sch. 5 para. 23(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)

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

**C4** S. 7 restricted (31.3.1995) by 1993 c. 8, **ss. 26(7)(e)**, 31(2) (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631 art. 2

**8 Additional provisions as to persons rendering judicial assistance.**

- (1) A person may sit and act under section 6 or 7 as a judge of a court for the purpose of a particular case or cases or during a specified period and whether or not all the judges of that court are sitting or are available to sit.
- (2) Every person while sitting and acting under section 6 or 7 shall, subject to subsection (3), be treated for all purposes as, and accordingly may perform any of the functions of, a judge of the court in which he is sitting and acting.
- (3) A person shall not by virtue of subsection (2) be treated as a judge of the court in which he is sitting and acting for the purposes of any statutory provision relating to—
  - (a) the appointment, retirement, removal or disqualification of judges of that court;
  - (b) the tenure of office and oaths to be taken by such judges; or
  - (c) the remuneration, allowances or pensions of such judges.

<sup>F11</sup>(4) .....

**Textual Amendments**

**F11** S. 8(4) repealed (31.3.1995) by 1993 c. 8, **ss. 31, Sch.9** (with Sch. 7 paras. 2(2), 3(2), 4); S.I. 1995/631 art. 2

[<sup>F129</sup> **Qualification to be judge of High Court or Court of Appeal**

A person is not qualified for appointment as Lord Chief Justice, a Lord Justice of Appeal or a judge of the High Court unless he is—

- (a) a member of the Bar of Northern Ireland of at least ten years' standing; or
- (b) a solicitor of the Supreme Court of at least ten years' standing.]

**Textual Amendments**

**F12** S. 9 substituted (15.10.2002) by 2002 c. 26, **s. 18(3)**; S.R. 2002/319, **art. 2, Sch.**

**10 Judicial precedence.**

- (1) The Lords Justices of Appeal shall rank among themselves according to the priority of their appointment as judges of the Court of Appeal.
- (2) The judges of the High Court shall rank next after the judges of the Court of Appeal and among themselves according to the priority of their appointment as judges of the High Court.

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## 11 Exercise of functions of Lord Chief Justice.

- (1) Anything which by virtue of this Act or any other statutory provision is for the time being authorised or required to be done to or by the Lord Chief Justice may, if the Lord Chief Justice is not available because of absence or other reason or if his office is vacant, be done during such unavailability or vacancy to or by the senior Lord Justice of Appeal who is available.
- (2) Nothing in subsection (1) shall confer on a Lord Justice of Appeal the power of making a permanent appointment to any office.

## 12 Appointment of judges.

- (1) Whenever the office of a judge of the High Court or of a Lord Justice of Appeal is vacant, a person may be appointed thereto by Her Majesty by letters patent under the Great Seal of Northern Ireland.
- (2) Whenever the office of Lord Chief Justice becomes vacant, a successor may be appointed by Her Majesty by letters patent under the Great Seal of Northern Ireland.
- [<sup>F13</sup>(3) The appointment by Her Majesty of a person to—
  - (a) the office of Lord Chief Justice, or
  - (b) the office of Lord Justice of Appeal,
 shall be made on the recommendation of the Prime Minister.
- (4) The Prime Minister must make a recommendation to fill any vacancy in the office of Lord Chief Justice.
- (5) The Prime Minister must make a recommendation to fill any vacancy in the office of Lord Justice of Appeal.
- (6) Subsection (5) does not apply to a vacancy while the Lord Chief Justice agrees that it may remain unfilled.
- (7) The appointment by Her Majesty of a person to the office of a judge of the High Court shall be made on the recommendation of the Lord Chancellor.]

### Textual Amendments

**F13** S. 12(3)-(7) inserted (25.7.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), ss. **28(1)**, **31(1)(g)**

PROSPECTIVE

## [<sup>F14</sup>12A Appointment of judges of High Court

Her Majesty may from time to time, on the recommendation of the First Minister and deputy First Minister acting jointly, appoint a qualified person as a judge of the High Court by letters patent under the Great Seal of Northern Ireland (but subject to the limit on numbers for the time being imposed by section 2).]

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#### Textual Amendments

**F14** Ss. 12, 12A substituted (*prosp.*) for s. 12 by 2002 c. 26, ss. 4, 87(1)

PROSPECTIVE

#### [<sup>F15</sup>12A Appointment of judges of the High Court

Her Majesty may, from time to time, appoint a qualified person as a judge of the High Court by letters patent under the Great Seal of Northern Ireland (but subject to the limit on numbers for the time being imposed by section 2).]

#### Textual Amendments

**F15** Ss. 12-12C substituted (*prosp.*) for s. 12, 12B by Northern Ireland Act 2009 (c. 3), ss. 2(1), 5(8), Sch. 2 (with Sch. 5 paras. 10, 11)

#### [<sup>F16</sup>12B Tenure of office

- (1) The Lord Chief Justice, Lords Justices of Appeal and judges of the High Court hold office during good behaviour (subject to section 26 of, and Schedule 7 to, the Judicial Pensions and Retirement Act 1993).
- (2) Her Majesty may on an address presented to Her Majesty by both Houses of Parliament remove a person from office as Lord Chief Justice, a Lord Justice of Appeal or a judge of the High Court.
- (3) A motion for the presentation of an address to Her Majesty for the removal of a person from any of those offices may be made—
  - (a) to the House of Commons only by the Prime Minister; and
  - (b) to the House of Lords only by the Lord Chancellor or, if the Lord Chancellor is not a member of that House, by another Minister of the Crown at his request.
- (4) No motion for the presentation of such an address may be made unless a tribunal convened under section 135 of the Constitutional Reform Act 2005 has reported to the Lord Chancellor recommending that the person be removed from the office on the ground of misbehaviour.
- (5) The Prime Minister shall lay a copy of the report before the House of Commons before making a motion for the presentation of an address in that House; and a person making such a motion in the House of Lords shall lay a copy of the report before that House before making the motion.
- (6) If the Prime Minister and Lord Chancellor are considering the making of motions for the presentation of an address to Her Majesty in relation to the Lord Chief Justice, the Prime Minister may suspend him from office; and if they are considering the making of such motions in relation to a Lord Justice of Appeal or a judge of the High Court the Prime Minister may suspend him from office with the agreement of the Lord Chief Justice.



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- (7) If a person is suspended from an office under subsection (6), he may not perform any of the functions of the office (but his other rights as holder of the office are unaffected).]

#### Textual Amendments

**F16** S. 12B inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 133, 148(1); S. I. 2006/1014, art. 2(a), Sch. 1 para. 25

VALID FROM 12/04/2010

#### [<sup>F15</sup>12C Tenure of office: Lords Justices of Appeal and certain High Court judges

- (1) Lords Justices of Appeal and judges of the High Court hold office during good behaviour (subject to section 26 of, and Schedule 7 to, the Judicial Pensions and Retirement Act 1993).
- (2) Her Majesty may, on an address of both Houses of Parliament, remove a person (“P”) from office as Lord Justice of Appeal or judge of the High Court.
- (3) A motion for such an address may be made—
  - (a) in the House of Commons, only by the Prime Minister;
  - (b) in the House of Lords, only by the Lord Chancellor or, if the Lord Chancellor is not a member of that House, only by another Minister of the Crown at the Lord Chancellor's request.
- (4) No motion is to be made for the purposes of subsection (3) unless—
  - (a) the Lord Chief Justice or the Northern Ireland Judicial Appointments Ombudsman has, after consulting the other, convened a tribunal as set out below,
  - (b) the tribunal has reported to the Lord Chief Justice recommending that P be removed from the office on the ground of misbehaviour, and
  - (c) the following has occurred—
    - (i) the Lord Chief Justice has advised the Prime Minister and the Lord Chancellor to accept the tribunal's recommendation, or
    - (ii) if the Lord Chief Justice does not so advise, the Prime Minister and the Lord Chancellor have consulted the Lord Chief Justice about the recommendation.
- (5) No motion is to be made in the House of Commons for the purposes of subsection (3) unless the Prime Minister has laid a copy of the tribunal's report before that House.
- (6) No motion is to be made in the House of Lords for the purposes of subsection (3) unless the person making it has laid a copy of the tribunal's report before that House.
- (7) If the Prime Minister and the Lord Chancellor are considering the making of motions for the purposes of subsection (3), the Prime Minister may, with the agreement of the Lord Chief Justice, suspend P from the office.
- (8) If P is suspended, P may not carry out any functions of the office (but P's other rights as holder of the office are unaffected).
- (9) A tribunal is to consist of—



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- (a) a person who holds high judicial office (within the meaning of Part 3 of the Constitutional Reform Act 2005) and who does not hold (and has never held) the office of Lord Chief Justice, Lord Justice of Appeal or judge of the High Court,
  - (b) a person who is or has been a judge of the Court of Appeal of England and Wales or the Inner House of the Court of Session, and
  - (c) a lay member of the Northern Ireland Judicial Appointments Commission (see section 3(5)(c) of the Justice (Northern Ireland) Act 2002).
- (10) The persons within subsection (9)(a) and (b) are to be selected by the Lord Chief Justice after consulting—
- (a) the Lord Chancellor,
  - (b) the President of the Supreme Court of the United Kingdom,
  - (c) the Lord Chief Justice of England and Wales, and
  - (d) the Lord President of the Court of Session;
- (or, where an office is vacant or an office holder is not available, some other appropriate person).
- (11) The person within subsection (9)(c) is to be selected by the Northern Ireland Judicial Appointments Ombudsman.
- (12) The person within subsection (9)(a) is to be the chair of the tribunal.
- (13) The tribunal's procedure is to be determined by the Lord Chief Justice.
- (14) If the tribunal recommends as mentioned in subsection (4)(b), the Lord Chief Justice must send the Prime Minister and the Lord Chancellor—
- (a) a copy of the tribunal's report,
  - (b) any comments that the Lord Chief Justice wishes to make on the report, and
  - (c) any comments that the Northern Ireland Judicial Appointments Ombudsman wishes to make on the report.
- (15) The justice department (within the meaning of the Justice (Northern Ireland) Act 2002) may pay a member of a tribunal any such allowances or fees as it may determine.
- (16) Nothing in subsections (1) to (15) applies to a judge of the High Court appointed after the coming into force of section 7 of the Justice (Northern Ireland) Act 2002 (as to the removal and suspension of whom see that section).
- (17) Before the coming into force of section 23 of the Constitutional Reform Act 2005, in subsection (10)(b) the reference to the President of the Supreme Court of the United Kingdom is to be read as a reference to the senior Lord of Appeal in Ordinary.]

#### Textual Amendments

- F15** Ss. 12-12C substituted (prosp.) for s. 12, 12B by [Northern Ireland Act 2009 \(c. 3\)](#), ss. 2(1), 5(8), [Sch. 2](#) (with [Sch. 5 paras. 10, 11](#))

### 13 Tenure of office, oath, etc.

- (1) <sup>F17</sup> .....

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- F18(2) .....
- F18(3) .....
- F18(4) .....
- F18(5) .....

#### Textual Amendments

- F17** S. 13(1) repealed (3.4.2006) by 2002 c. 26, ss. 86, 87(1), Sch. 13; S.R. 2006/124, art. 2, Sch.
- F18** S. 13(2)-(5) repealed (15.10.2002) by 2002 c. 26, s. 86, Sch. 13; S.R. 2002/319, art. 2 Sch.

## 14 Vacation of office.

- (1) The Lord Chief Justice, a Lord Justice of Appeal or a judge of the High Court may vacate his office by resignation in writing under his hand addressed to the Lord Chancellor.
- (2) The High Court and the Court of Appeal shall be deemed to be duly constituted during and notwithstanding any vacancy in the office of any judge of either court.
- (3) Nothing in subsection (1) shall affect the operation of section 12 of the <sup>M1</sup>Administration of Justice Act 1973 (retirement of higher judiciary in the event of incapacity).

#### Marginal Citations

- M1** 1973 c. 15.

## 15 Power of judges to act in cases relating to rates and taxes.

- (1) The Lord Chief Justice, a Lord Justice of Appeal, a judge of the High Court or a judge of the Crown Court shall not be incapable of acting in his judicial office in any proceeding by reason of his being as one of several ratepayers or as one of any other class of persons liable, in common with others, to contribute to or eligible to be benefited by any rate or tax which may be increased, diminished or in any way affected by that proceeding.
- (2) In this section the expression “rate or tax” means any rate, tax, duty or assessment whether public, general or local, and also any fund formed from the proceeds of any such rate, tax, duty or assessment, or applicable to the purposes to which any such rate, tax, duty or assessment might be applied or similar purposes.

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## PART II

### THE HIGH COURT

#### *General jurisdiction*

#### **16 General jurisdiction of the High Court and its judges.**

- (1) The High Court shall be a superior court of record.
- (2) There shall, subject to the provisions of this Act, be exercisable by the High Court—
  - (a) all such jurisdiction as was heretofore capable of being exercised by the High Court of Justice in Northern Ireland;
  - (b) such other jurisdiction as is conferred by this Act or as may from time to time be conferred on the High Court by any subsequent statutory provision.
- (3) The jurisdiction vested in the High Court shall, save as provided by this Act, include the jurisdiction heretofore capable of being exercised by the High Court of Justice in Northern Ireland or by any division or judge or officer thereof in pursuance of any statutory provision, prerogative, law or custom and also all ministerial and other powers, duties and authorities incident to any and every part of the jurisdiction so vested.
- (4) In addition to the jurisdiction and functions exercisable by him under or by virtue of any other provision of this Act, the Lord Chief Justice may, save as provided by this Act, exercise all the jurisdiction and ministerial and other powers, duties and authorities which, in pursuance of any statutory provision, prerogative, law or custom, were heretofore capable of being exercised by the Lord Chief Justice of Northern Ireland otherwise than as a judge of the High Court or Court of Appeal.
- (5) Except where a statutory provision otherwise provides, any jurisdiction of the High Court or a division thereof shall be exercised by a single judge.
- (6) The generality of this section is not limited by any other provision of this Act.

#### **17 Assignment of business to judges.**

Without prejudice to section 5(3), the Lord Chief Justice may assign to any judge of the High Court any part of the business of that court or of any division thereof and, in particular, may assign to such a judge, to be known as the Chancery Judge, the whole or any part of the business of the Chancery Division.

#### *Supervisory and declaratory jurisdiction*

#### **18 Application for judicial review.**

- (1) Rules of court shall provide for a procedure, to be known as an application for judicial review, under which application may be made to the High Court for one or more of the following forms of relief, that is to say, relief by way of—
  - (a) an order of mandamus;
  - (b) an order of certiorari;
  - (c) an order of prohibition;

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- (d) a declaration;
  - (e) an injunction.
- (2) Without prejudice to the generality of subsection (1), the rules shall provide—
- (a) that leave of the court shall be obtained before any application for judicial review, other than an application for an order of certiorari by the Attorney General acting on behalf of the Crown, is made;
  - (b) that such leave shall not be granted if, having regard to the nature of the persons and bodies against whom relief may be granted by way of an order of mandamus, prohibition or certiorari, the court is satisfied that the case is one in respect of which of which relief could not be granted by way of any such order;
  - (c) that, where leave is so obtained, the grounds relied on and the relief granted shall only be one or more of those specified in the application;
  - (d) that the court may direct, or grant leave for, the application to be amended to specify different or additional grounds or relief; and
  - (e) that the court may, subject to subsection (6), direct pleadings to be delivered or authorise or require oral evidence to be given where this appears to the court to be necessary or desirable.
- (3) On an application for judicial review the court may grant any of the forms of relief mentioned in subsection (1)(a) to (e) which the applicant has claimed and to which he appears to be entitled whether or not he appears to be entitled to any of the other forms of relief so mentioned, whether claimed or not.
- (4) The court shall not grant any relief on an application for judicial review unless it considers that the applicant has a sufficient interest in the matter to which the application relates.
- (5) Without prejudice to section 25 of this Act or to [<sup>F19</sup>Article 159 of the Magistrates' Courts (Northern Ireland) Order 1981], where, on an application for judicial review, the court finds that—
- (a) the sole ground of relief established is a defect in form or a technical irregularity; and
  - (b) no substantial wrong and no miscarriage of justice has occurred or no remedial advantage could accrue to the applicant,
- the court may refuse relief and, where a lower deciding authority has exercised jurisdiction, may make an order, having effect from such time and on such terms as the court thinks just, validating any decision or determination of the lower deciding authority or any act done in consequence thereof notwithstanding that defect or irregularity.
- (6) No return shall be made to orders of mandamus, prohibition or certiorari and no pleadings in prohibition shall be allowed but, subject to any right of appeal, such orders shall be final.
- (7) For references in any statutory provision coming into operation as respects Northern Ireland before 15th September 1965 to a writ of mandamus, prohibition or certiorari there shall be substituted references to the corresponding order and for references to the issue or award of any such writ there shall be substituted references to the making of the corresponding order.

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#### Textual Amendments

**F19** Words substituted by S.I. 1981/1675 (N.I. 26), s. 52(8), Sch. 6 para. 50

### 19 Stay and interim relief.

On an application for judicial review, the High Court may grant a stay of proceedings or of enforcement of an order or may grant such interim relief as it considers appropriate pending final determination of the application.

### 20 Damages.

In proceedings on an application for judicial review the High Court may, in lieu of or in addition to any other relief, award damages to an applicant, if—

- (a) he has, in accordance with rules of court, joined with his application a claim for damages arising from any matter to which the application relates; and
- (b) the court is satisfied that, if such claim had been made in a separate action begun by the applicant at the time of making his application, he would have been entitled to such damages.

### 21 Power to remit matter or reverse or vary decision.

Without prejudice to section 18(5), where on an application for judicial review—

- (a) the relief sought is an order of certiorari; and
- (b) the High Court is satisfied that there are grounds for quashing the decision in issue,

the court may, instead of quashing the decision, remit the matter to the lower deciding authority concerned, with a direction to reconsider it and reach a decision in accordance with the ruling of the court or may reverse or vary the decision of the lower deciding authority.

### 22 Extension of supervisory powers of High Court.

(1) Any statutory provision to the effect that any order or determination shall not be called into question in any court, or which by similar words excludes any of the powers of the High Court, shall not operate so as to—

- (a) prevent the removal of the proceedings into the High Court by order of certiorari; or
- (b) prejudice the powers of the High Court to make orders of mandamus.

(2) This section does not apply to—

- (a) .....<sup>F20</sup>
- (b) any statutory provision specially authorising applications to the High Court within a time limited by that provision; or
- (c) a statutory provision passed or made on or after 1st August 1958.

#### Textual Amendments

**F20** S. 22(2)(a) repealed by British Nationality Act 1981 (c. 61, SIF 87), s. 52(8), Sch. 9

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## **23 Declaratory judgments.**

- (1) No action or other proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby.
- (2) The High Court may make binding declarations of right in any action or other proceeding whether or not any consequential relief is or could be claimed therein.
- (3) Notwithstanding that the events on which a right depends may not have occurred, the High Court may in its discretion make a binding declaration of right if it is satisfied that—
  - (a) the question for decision involves a point of general public importance or that it would in the circumstances be unjust or inconvenient to withhold the declaration; and
  - (b) the interests of persons not parties to the proceedings would not be unjustly prejudiced by the declaration.

## **24 Injunction concerning public office.**

- (1) Where a person is acting or has acted in an office to which this section applies without being entitled so to act, the High Court, on an application under this section, may—
  - (a) grant an injunction restraining him from so acting;
  - (b) declare the office to be vacant.
- (2) This section applies to any substantive office of a public nature and permanent character which is held under the Crown or has been created by or under a statutory provision or royal charter.

## **25 Power of High Court to vary sentence on certiorari.**

- (1) Where a person has been sentenced for an offence by a magistrates' court or, on appeal, by a county court and an application is made to the High Court for an order of certiorari to remove the proceedings of the magistrates' court or the county court into the High Court, and the High Court determines that the magistrates' court or county court had no power to pass the sentence, the High Court may, instead of quashing the conviction, amend it by substituting for the sentence passed any sentence which the magistrates' court had power to impose.
- (2) Any sentence passed by the High Court by virtue of this section in substitution for the sentence passed in the proceedings of the magistrates' court or county court shall, unless the High Court otherwise directs, begin to run from the time when it would have begun to run if passed in those proceedings.
- (3) Subsections (1) and (2) shall apply, with the necessary modifications, in relation to any order of a magistrates' court or county court which is made on, but does not form part of, the conviction of an offender as they apply in relation to a conviction and sentence.
- (4) The High Court may release from custody a person who has been convicted or sentenced by a magistrates' court or, on appeal, by a county court and has applied to the High Court for an order of certiorari to remove the proceedings of the magistrates' court or the county court into the High Court on his entering into a recognizance, with or without sureties, conditioned for his appearance within ten days after the judgment of the High Court is given, unless the conviction or sentence is quashed by that judgment.

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- (5) The time during which a person is admitted to bail under this section shall not count as any term of imprisonment or detention under his sentence, and any sentence of imprisonment or detention imposed by a magistrates' court or, on appeal, by a county court after the imposition of which a person is so admitted to bail shall be deemed to begin to run or to be resumed as from the date on which he is received under the sentence in the prison or other place where he is to be detained.
- (6) Rules of court may prescribe the persons before whom and the manner in which a recognizance under subsection (4) shall be entered into by a person applying for an order of certiorari and the manner in which such a recognizance may be enforced and may authorise the recommittal of persons so applying.

### [<sup>F21</sup>25A Transfer of judicial review applications to Upper Tribunal

- (1) This section applies where an application is made to the High Court—
  - (a) for judicial review, or
  - (b) for leave to apply for judicial review.
- (2) If Conditions 1, 2, 3 and 4 are met, the High Court must by order transfer the application to the Upper Tribunal.
- (3) If Conditions 1, 2 and 4 are met, but Condition 3 is not, the High Court may by order transfer the application to the Upper Tribunal if it appears to the High Court to be just and convenient to do so.
- (4) Condition 1 is that the application does not seek anything other than—
  - (a) relief under section 18(1)(a) to (e);
  - (b) leave to apply for relief under section 18(1)(a) to (e);
  - (c) an award under section 20;
  - (d) interest;
  - (e) costs.
- (5) Condition 2 is that the application does not call into question anything done by the Crown Court.
- (6) Condition 3 is that the application falls within a class specified under section 18(6) of the Tribunals, Courts and Enforcement Act 2007.
- (7) Condition 4 is that the application does not call into question any decision made under—
  - (a) the Immigration Acts,
  - (b) the British Nationality Act 1981,
  - (c) any instrument having effect under an enactment within paragraph (a) or (b),  
or
  - (d) any other provision of law for the time being in force which determines British citizenship, British overseas territories citizenship, the status of a British National (Overseas) or British Overseas citizenship.]

#### Textual Amendments

- F21** S. 25A inserted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), **ss. 19(2)**, 148(5); [S.I. 2008/2696](#), **art. 5(a)** (with arts. 3, 4)



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*Jurisdiction in relation to persons under disability*

**26 Wards of court.**

(1) Subject to the provisions of this section, no minor shall be made a ward of court except by virtue of an order to that effect made by the High Court.

(2) Where application is made for such an order in respect of a minor, the minor shall become a ward of court on the making of the application, but shall cease to be a ward of court at the expiration of such period as may be prescribed, unless within that period an order has been made in accordance with the application.

[<sup>F22</sup>(2A) Subsection (2) does not apply with respect to a child who is the subject of a care order (as defined by Article 2(2) of the Children (Northern Ireland) Order 1995).]

(3) The High Court may, either upon an application in that behalf or without such an application, order that any minor who is for the time being a ward of court shall cease to be a ward of court.

(4) The power of the High Court to make a minor a ward of court or to make an order in relation to a minor who is a ward of court may be exercised irrespective of whether or not the minor has property of any kind.

**Textual Amendments**  
**F22** S. 26(2A) added (4.11.1996) by S.I. 1995/755 (N.I. 2), arts. 1(2), 185(1), **Sch. 9 para. 90** (with Sch. 8 paras. 1(1), 23(4)) S.R. 1996/297, **art. 2(2)**

<sup>F23</sup>**27** .....

**Textual Amendments**  
**F23** S. 27 repealed (4.11.1996) by S.I. 1995/755 (N.I. 2), arts. 1(2), 185(2), **Sch. 10** (with Sch. 8 paras. 1(1), 23(4)); S.R. 1996/297 art. 2(2)

**28** ..... <sup>F24</sup>

**Textual Amendments**  
**F24** S. 28 repealed by S.I. 1986/595 (N.I. 4), art. 138, **Sch. 7**

**29 Co-ordination of exercise of jurisdiction in relation to persons under disability.**

(1) Rules of court may make provision for ensuring that where—

(a) a cause or matter affecting a person under a disability of any kind is brought before a judge of the High Court other than a judge (“the assigned judge”) to whom causes or matters particularly affecting persons under a disability of that kind are assigned; or

(b) any question affecting such a person arises in a cause or matter so brought:

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any conflict between the exercise of jurisdiction by the judge seised of the proceedings (“the seised judge”) and the assigned judge is avoided and the exercise of those jurisdictions is co-ordinated.

- (2) For example, in relation to minors the rules may make provision for the purposes of—
- (a) enabling the seised judge to make an order making a minor a ward of court, if he considers it proper to do so, and to transfer the cause or matter to the assigned judge;
  - (b) enabling or requiring the seised judge to refer the question of wardship to the assigned judge;
  - (c) empowering the seised judge, where a question arising in the proceedings affects the welfare (including [F25upbringing]) or property of a minor who is already a ward of court, either—
    - (i) to refer the question to the assigned judge, or
    - (ii) to make such order as he considers necessary to dispose of the question (not being an order which conflicts with an order previously made in wardship proceedings affecting the minor),
 and enabling an order made by virtue of sub-paragraph (ii) to be varied or discharged;
  - (d) requiring the seised judge—
    - (i) when he makes an order and transfers a cause or matter as mentioned in paragraph (a), or
    - (ii) when he makes a reference as mentioned in paragraph (b), or
    - (iii) when he makes a reference or order as mentioned in paragraph (c),
 to furnish to the assigned judge a report on the relevant facts and proceedings together with such observations and recommendations as he thinks fit;
  - (e) empowering the assigned judge, on a cause or matter being transferred to him or a question being referred to him, to proceed as though it had originated before him.
- (3) Rules of court shall provide for the transmission to the Office of Care and Protection of a copy of an order made by the seised judge—
- (a) which relates to a person under a disability which brings him within the jurisdiction of that Office;
  - (b) which makes a minor a ward of court; or
  - (c) which the judge directs be so transmitted.

#### Textual Amendments

**F25** Words in s. 29(2)(c) substituted (4.11.1996) by S.I. 1995/755 (N.I. 2) arts.185(1), Sch. 9, para. 91, (with ss. Sch. 8, para. 1(1), 23(4)); S.R. 1996/297, art. 2(2)

### *Admiralty jurisdiction*

#### **30 High Court to have exclusive original jurisdiction in admiralty.**

The High Court shall, subject to section 46(3), have exclusive original jurisdiction in admiralty and, accordingly, a county court shall not have jurisdiction to hear any admiralty cause or matter and the admiralty jurisdiction conferred on the Court of the

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Recorder of Belfast by section 55 of, and Part I of Schedule 1 to, the <sup>M2</sup>Administration of Justice Act 1956 is hereby abolished.

#### Marginal Citations

M2 1956 c. 46.

### Miscellaneous powers of High Court

#### 31 Remittal and removal of proceedings.

- (1) The High Court may in accordance with rules of court at any stage remit to a county court the whole or any part of any civil proceedings to which this subsection applies if—
  - (a) the parties consent to the remittal thereof;
  - (b) the court is satisfied upon the application of any party to proceedings involving an unliquidated claim that the full amount of that claim is likely to be within the monetary limit of the jurisdiction of the county court;
  - (c) the court is satisfied, whether upon the application of any party or otherwise, that the subject matter of the proceedings (not being an unliquidated claim) is or is likely to be within the limits of the jurisdiction of the county court; or
  - (d) the claimant abandons the right to recover any amount in excess of the monetary limit of the jurisdiction of the county court,
 and in any such case the court is of the opinion that in all the circumstances the proceedings may properly be heard and determined in the county court.
- (2) Subsection (1) applies to civil proceedings commenced in the High Court of a kind which the 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.
- (3) Proceedings remitted under this section shall be remitted to such county court as the High Court may specify, being either a county court in which the proceedings could, apart from any limitation by reason of amount or value or annual value, have been commenced or, with the concurrence of the parties, any other county court appearing to the High Court to be convenient.
- (4) Where proceedings are remitted to a county court under this section, the county court shall have jurisdiction to hear and determine those proceedings and—
  - (a) the county court shall have the like jurisdiction as the High Court as to the giving of any relief claimed, including (but without prejudice to the generality of this provision) the amount of damages that may be awarded; and
  - (b) the parties to the proceedings shall have the like right of appeal as if the proceedings had been commenced in the county court.
- (5) The High Court may in accordance with rules of court at any stage remove to that court from a county court and hear and determine the whole or any part of any civil proceedings which could have been commenced in the High Court but have been commenced in that county court if—
  - (a) the parties consent to the removal thereof; or
  - (b) on the application of any party the court is satisfied that there is a triable issue,

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and in either such case the court is of opinion that, by reason of the nature of the proceedings, the amount of the claim or the value or annual value of the subject matter, the proceedings are not within the jurisdiction of the county court or that the proceedings could in all the circumstances be more appropriately heard and determined in the High Court.

- (6) The High Court may require any party on whose application any proceedings are removed to that court to give security of such nature and amount as that court may by order direct.
- (7) This section shall not apply to the following proceedings, namely—
- (a) applications for adoption orders (including provisional adoption orders);
  - (b) applications under section 17 of the <sup>M3</sup>Married Women’s Property Act 1882 [<sup>F26</sup>or section 191 of the Civil Partnership Act 2004];
  - (c) proceedings under section 57 of the <sup>M4</sup>Trustee Act (Northern Ireland) 1958;
  - (d) .....<sup>F27</sup>
- (8) This section shall apply to proceedings by and against the Crown, but—
- (a) in its application to proceedings against the Crown this section shall have effect subject to the provisions of section 20(2) of the <sup>M5</sup>Crown Proceedings Act 1947 as they extend to Northern Ireland;
  - (b) nothing in subsection (6) shall have effect so as to require or to authorise the making of an order requiring security to be given by the Crown;
  - (c) no proceedings by the Crown shall be remitted to a county court without the consent of the Crown;
  - (d) nothing in this section shall apply to proceedings affecting Her Majesty in Her private capacity.
- (9) For the purposes of this section—
- (a) the amount of a claim shall be taken as the amount remaining in dispute after allowance has been made for any payment, set off or other amount admitted by tender or otherwise to be due and after any abandonment by the claimant of any amount by which the sum claimed exceeds the monetary limit of the jurisdiction of the county court;
  - (b) the full amount of an unliquidated claim shall be taken as the amount which would be recoverable if no deduction were made in respect of the claimant’s own fault;
  - (c) in determining whether an amount exceeds the monetary limit of the jurisdiction of the county court, no account shall be taken of any power exercisable by virtue of [<sup>F28</sup>Article 45A of the County Courts (Northern Ireland) Order 1980] or of any order made in the exercise of such a power;
  - (d) “proceedings” includes proceedings on a counterclaim; and
  - (e) “the Crown” includes the Crown in right of Her Majesty’s Government in the United Kingdom and in right of Her Majesty’s Government in Northern Ireland.

**Textual Amendments**

**F26** Words in s. 31(7)(b) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(3), 263(10)(d), Sch. 29 para. 24; S.I. 2005/3255, art. 2(2)

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- F27** S. 31(7)(d) repealed by S.I. 1982/1080 (N.I. 12), art. 1(2), 46(3), **Sch. 9** but by S.Rs. 1984 No. 422 and 1989 No. 47 the repeal came into operation in relation to the Pigs Marketing Board (Northern Ireland) on 31.12.1984 and in relation to the Milk Marketing Board for Northern Ireland on 1.4.1989 respectively
- F28** Words substituted by Administration of Justice Act 1982 (c. 53, SIF 38), s. 69, **Sch. 7 Pt. III para. 2**

#### Marginal Citations

- M3** 1882 c. 75.  
**M4** 1958 c. 23 (N.I.)  
**M5** 1947 c. 44.

### 32 Restriction on institution of vexatious actions.

- (1) If, on an application made by the Attorney General under this section, the High Court is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings, whether in the High Court or in any inferior court or tribunal, and whether against the same person or against different persons, the court may, after hearing that person or giving him an opportunity of being heard, order—
- (a) that no legal proceedings shall without the leave of the High Court be instituted by him in any court or tribunal;
  - (b) that any legal proceedings instituted by him in any court or tribunal before the making of the order shall not be continued by him without such leave;
- and such leave shall not be given unless the court is satisfied that the proceedings are not an abuse of the process of the court and that there is prima facie ground for the proceedings.
- (2) The court may in its discretion assign a solicitor or counsel to any person against whom an order is sought under this section and the expenses of any such solicitor or counsel shall be taxed and paid out of the legal aid fund.
- (3) A notice of the making of any order under this section shall be published in the Belfast Gazette.

### 33 Execution of instruments by order of court.

Where any person neglects or refuses to comply with a judgment or order directing him to execute any conveyance, contract or other document or to endorse any negotiable instrument, the High Court may, on such terms and conditions, if any, as may be just, order that the conveyance, contract or other document shall be executed or that the negotiable instrument shall be endorsed by such person as the court may nominate for that purpose, and a conveyance, contract, document or instrument so executed or endorsed shall operate and be for all purposes available as if it had been executed or endorsed by the person originally directed to execute or endorse it.

#### [<sup>F29</sup>33A Power of High Court to award interest on debts and damages.

- (1) Subject to rules of court, in proceedings (whenever instituted) before the High Court for the recovery of a debt or damages there may be included in any sum for which judgment is given simple interest, at such rate as the court thinks fit or as rules of court may provide, on all or any part of the debt or damages in respect of which judgment is

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given, or payment is made before judgment, for all or any part of the period between the date when the cause of action arose and—

- (i) in the case of any sum paid before judgment, the date of the payment; and
- (ii) in the case of the sum for which judgment is given, the date of the judgment.

(2) Subject to the rules or court, where—

- (a) there are proceedings (whenever instituted) before the High Court for the recovery of a debt; and
- (b) the defendant pays the whole debt to the plaintiff (otherwise than in pursuance of a judgment in the proceedings),

the defendant shall be liable to pay the plaintiff simple interest at such rate as the court thinks fit or as rules of court may provide on all or any part of the debt for all or any part of the period between the date when the cause of action arose and the date of the payment.

- (3) Interest in respect of a debt shall not be awarded under this section for a period during which, for whatever reason, interest on the debt already runs.
- (4) Without prejudice to the generality of section 55, rules of court may provide for a rate of interest by reference to a rate for which any other enactment provides.
- (5) Interest under this section may be calculated at different rates in respect of different periods.
- (6) In this section “plaintiff” means the person seeking the debt or damages and “defendant” means the person from whom the plaintiff seeks the debt or damages.
- (7) Nothing in this section affects the damages recoverable for the dishonour of a bill of exchange.]

#### Textual Amendments

**F29** S. 33A inserted by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 69, [Sch. 7 Pt. I](#)

## PART III

### THE COURT OF APPEAL AND THE HOUSE OF LORDS

#### 34 General jurisdiction of Court of Appeal.

- (1) The Court of Appeal shall be a superior court of record.
- (2) There shall, subject to the provisions of this Act, be exercisable by the Court of Appeal—
  - (a) all such jurisdiction as was heretofore capable of being exercised by the Court of Appeal in Northern Ireland;
  - (b) all such jurisdiction as was heretofore capable of being exercised by the Court of Criminal Appeal;
  - (c) such other jurisdiction as is conferred by this Act or as may from time to time be conferred on the Court of Appeal by any subsequent statutory provision.

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- (3) The Court of Criminal Appeal shall cease to exist and in accordance with the foregoing provisions of this section—
- (a) any reference in any statutory provision in force before the commencement of this section to the Court of Criminal Appeal, except where it occurs in a reference to a judge or a registrar of the Court of Criminal Appeal, shall be construed as a reference to the Court of Appeal;
  - (b) any reference in any such statutory provision to a judge of the Court of Criminal Appeal shall be construed as a reference to a judge of the Court of Appeal or of the High Court;
  - (c) any reference in any such statutory provision to the registrar of the Court of Criminal Appeal shall be construed as a reference to the Master (Queen’s Bench and Appeals).
- (4) The generality of this section is not limited by any other provision of this Act.

### **35 Appeals to Court of Appeal from High Court.**

- (1) Subject as otherwise provided in this or any other statutory provision, the Court of Appeal shall have jurisdiction to hear and determine in accordance with rules of court appeals from any judgment or order of the High Court or a judge thereof.
- (2) No appeal to the Court of Appeal shall lie—
- (a) except as provided by the following provisions of this Part from any judgment of the High Court in any criminal cause or matter;
  - (b) from an order allowing an extension of time for appealing from a judgment or order;
  - (c) from an order of a judge giving unconditional leave to defend an action;
  - (d) from an order or judgment of the High Court or any judge thereof where it is provided by or by virtue of any statutory provision that that order or judgment or the decision or determination upon which it is made or given is to be final;
  - (e) from a decree absolute for the dissolution or nullity of marriage by a party aggrieved thereby who, having had time and the opportunity to appeal from the decree nisi on which the decree absolute was founded, has not appealed from that decree nisi;
  - <sup>[F30]</sup>(ea) from a dissolution order, nullity order or presumption of death order under Chapter 2 of Part 4 of the Civil Partnership Act 2004 that has been made final, by a party who, having had time and the opportunity to appeal from the conditional order on which the final order was founded, has not appealed from that conditional order;]
  - (f) without the leave of the court or judge making the order, from an order of the High Court or a judge thereof made with the consent of the parties or as to costs only;
  - <sup>[F31]</sup>(fa) except as provided by Part I of the Arbitration Act 1996, from any decision of the High Court under that Part;]
  - (g) without the leave of the judge or of the Court of Appeal, from any interlocutory order or judgment made or given by a judge of the High Court, except in the following cases namely:—
    - (i) where the liberty of the subject or the <sup>[F32]</sup>residence of, or contact with,] minors is concerned;



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- (ii) where an injunction or the appointment of a receiver is granted or refused;
  - (iii) in the case of a decision determining the claim of any creditor or the liability of any contributory or the liability of any director or other officer under the [F33 the Companies Acts (as defined in section 2 of the Companies Act 2006)] in respect of misfeasance or otherwise;
  - (iv) in the case of a decree nisi in a matrimonial cause [F34, a conditional order in a civil partnership cause] or a judgment or order in an admiralty action determining liability;
  - F35 (v) . . . . .
  - (vi) in such other cases as may be prescribed being cases appearing to the Rules Committee to be of the nature of final decisions;
  - (h) from the decision of the High Court on any question of law, whether on appeal or otherwise, under [F36 sections 120 to 156 of the M6 Representation of the People Act 1983];
  - (i) from a decision granting or refusing a certificate under section 12 of the M7 Administration of Justice Act 1969.
  - [F37 (j) without the leave of the High Court or of the Court of Appeal, from a decision of the High Court under the Insolvency (Northern Ireland) Order 1989]
- (3) An order refusing unconditional leave to defend an action shall not be deemed to be an interlocutory order within the meaning of this section.
- (4) Subject to subsection (3), any doubt which may arise as to what orders or judgments are final and what are interlocutory shall be determined by the Court of Appeal.
- (5) Notwithstanding any provision of this section or of any other statutory provision, where any decision of a court in Northern Ireland involves the decision of any question as to the validity of any provision made by or under an Act of the Parliament of Northern Ireland or a Measure of the Northern Ireland Assembly and the decision is not otherwise subject to any appeal to the Court of Appeal or the House of Lords an appeal shall lie to the Court of Appeal by virtue of this subsection.
- (6) Where under any statutory provision passed or made before the commencement of this Act an appeal, either by way of case stated or upon a point of law only, lies from any lower deciding authority to the High Court or to a judge of the Supreme Court and the decision of any such court or judge is expressed to be final, such appeal shall lie instead to the Court of Appeal, and the decision of that court shall be final.

#### Textual Amendments

- F30** S. 35(2)(ea) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(3), 263(10)(d), **Sch. 29 para. 25(2)**; S.I. 2005/3255, **art. 2(2)**
- F31** S. 35(2)(fa) added (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3, para. 34(2)**, (with 81(2)); S.I. 1996/3146, **art.3**, (with art. 4, Sch. 2)
- F32** S. 35(2)(g)(i) amended (4.11.1996) by S.I. 1995/755(N.I. 2) art. 185(1), Sch. 9, para. 92; S.R. 96/297, art. 2(2)
- F33** Words in s. 35(2)(g)(iii) substituted (1.10.2007) by The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 10(1), **Sch. 4 para. 33** (with art. 12)
- F34** Words in s. 35(2)(g)(iv) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(3), 263(10)(d), **Sch. 29 para. 25(3)**; S.I. 2005/3255, **art. 2(2)**

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- F35** S. 35(2)(g)(v) repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch.4** (with s. 81(2)); S.I. 1996/3146, art.3, **Sch. 1**, (with art. 4, Sch. 2)
- F36** Words substituted by **Representation of the People Act 1983** (c. 2, SIF 42), s. 205, **Sch. 8 para. 24**
- F37** S. 35(2)(j) inserted (N.I.) (1. 10. 1991) by S.I. 1989/2405, art. 381, **Sch. 9 Pt. II para. 29**; S.R. 1991/411, **art. 2**.

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

- C5** S. 35(2)(h) applied (with modifications) (28.5.1998) by S.I. 1998/1287, **art. 3(4)**; S.I. 1998/1313, **art. 2**
- C6** S. 35(2)(h) extended with modifications by S.I. 1986/2250, **regs. 2, 3, 5(3)**
- C7** S. 35(2)(h) applied (with modifications) (4.5.1996) by S.I. 1996/1220, **art. 3(4)**  
 S. 35(2)(h) applied (with modifications) (1.8.2001) by S.I. 2001/2599, **art. 3(4)**
- C8** S. 35(2)(h) applied (with modifications) by Northern Ireland Assembly (Elections) Order 2001 (S.I. 2001/2599), **art. 3(4)** (as substituted (10.2.2007) by S.I. 2009/256, arts. 1(2), **3(1)**)

#### Marginal Citations

- M6** 1983 c. 2  
**M7** 1969 c. 58.

## 36 Composition of Court of Appeal.

- (1) Subject to the provisions of this and the next following section [<sup>F38</sup>every appeal to the Court of Appeal, other than an appeal under the Criminal Appeal Act,] and every matter preliminary or incidental to such appeal . . . <sup>F39</sup> shall be heard before three judges of that court and shall, where necessary, be determined according to the opinion of the majority.
- (2) Where the Lord Chief Justice so directs, any such appeal, . . . <sup>F40</sup> or matter may be heard before two judges.
- (3) Where in accordance with subsection (2) an appeal, . . . <sup>F40</sup> or matter is heard before two judges and those judges differ in opinion—
- (a) it shall, in the case of a criminal cause or matter, be re-heard and determined by three judges;
  - (b) it may, in any other case, be so re-heard and determined on the application of any party thereto.
- (4) No judge of the Court of Appeal shall sit as a judge on the hearing of, or shall determine any application in proceedings incidental or preliminary to—
- (a) . . . . . <sup>F41</sup>
  - (b) an appeal from a judgment or order of that judge when sitting in the High Court or of a court of the High Court of which he was a member;
  - (c) . . . . . <sup>F41</sup>
- (5) . . . . . <sup>F41</sup>

#### Textual Amendments

- F38** Words substituted by **Criminal Appeal (Northern Ireland) Act 1980** (c. 47, SIF 38), s. 51(1), **Sch. 4 para. 15**
- F39** Words repealed by **Criminal Appeal (Northern Ireland) Act 1980** (c. 47, SIF 38), s. 51(2), **Sch. 5**
- F40** Word repealed by **Criminal Appeal (Northern Ireland) Act 1980** (c. 47, SIF 38), s. 51(2), **Sch. 5**

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**F41** Ss. 36(4)(a)(c)(5), 37(1), 39, 40 repealed by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), s. 51(2), [Sch. 5](#)

### 37 Powers of a single judge in Court of Appeal.

(1) ..... **F42**

(2) In any cause or matter pending before the Court of Appeal, other than an appeal under the Criminal Appeal Act, any direction incidental thereto not involving the decision of the appeal may be given by a single judge of that court, and a single judge of that court may at any time during vacation make an order granting leave to appeal to the Court of Appeal or any interim order to prevent prejudice to the claims of any parties pending an appeal as he may think fit.

(3) ..... **F43**

#### Textual Amendments

**F42** Ss. 36(4)(a)(c)(5), 37(1), 39, 40 repealed by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), s. 51(2), [Sch. 5](#)

**F43** Words repealed by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), s. 51(2), [Sch. 5](#)

### 38 Powers of court for purposes of appeals.

(1) For all the purposes of and incidental to the hearing or determination of any appeal, other than an appeal under the Criminal Appeal Act, against any decision or determination of a court, tribunal, authority or person (in this section referred to as “the original court”) and the amendment or enforcement of any judgment or order made thereon, the Court of Appeal shall, in addition to all other powers exercisable by it, have all the jurisdiction of the original court and may—

- (a) confirm, reverse or vary the decision or determination of the original court;
- (b) remit the appeal or any matter arising thereon to the original court with such declarations or directions as the Court of Appeal may think proper;
- (c) in the case of an appeal from a decision or determination of the High Court, order a retrial or make any such order as could be made in pursuance of an application for a new trial;
- (d) adjourn the hearing from time to time;
- (e) draw any inference of fact which might have been drawn or give any judgment or make any order which might have been given or made by the original court and make such further or other order as the case may require;
- (f) where the appeal is by case stated, amend the case stated or remit it, with such declarations or directions as the court may think proper, for hearing and determination by the original court or for re-statement or amendment or for a supplemental case to be stated thereon;
- (g) make such order as to costs and expenses incurred in the appeal and in the proceedings in the original court as the Court of Appeal thinks fit;
- (h) in special circumstances order that such security shall be given for the costs of an appeal as may be just;
- (i) make such other order as may be necessary for the due determination of the appeal.

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- (2) The powers of the Court of Appeal in respect of an appeal to which subsection (1) applies—
- (a) shall not be restricted by reason of any interlocutory order from which there has been no appeal; and
  - (b) may be exercised notwithstanding that no notice of appeal or respondent's notice has been given in respect of any particular part of the decision of the original court or by any particular party to the proceedings in that court or that any ground for allowing the appeal or for affirming or varying the decision of that court is not specified in such a notice;
- and the Court of Appeal may make any order, on such terms as the court thinks just, to ensure the determination on the merits of the real question in controversy between the parties.
- (3) It shall be the duty of the original court to have regard to all such declarations and to obey all such directions, if any, as may be given by the Court of Appeal pursuant to subsection (1).
- (4) Judgments and orders made by the Court of Appeal shall have the like effect and may be enforced in like manner as judgments and orders made by the original court.

**39, 40.** ..... F44

#### Textual Amendments

**F44** Ss. 36(4)(a)(c)(5), 37(1), 39, 40 repealed by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), s. 51(2), [Sch. 5](#)

#### **41 Appeals to House of Lords in other criminal matters.**

- (1) Subject to the provisions of this section, an appeal shall lie to the House of Lords, at the instance of the defendant or the prosecutor,—
- (a) from any decision of the High Court in a criminal cause or matter;
  - (b) from any decision of the Court of Appeal in a criminal cause or matter upon a case stated by a county court or a magistrates' court.
- (2) No appeal shall lie under this section except with the leave of the court below or of the House of Lords; and, subject to section 45(3), such leave shall not be granted unless it is certified by the court below that a point of law of general public importance is involved in the decision and it appears to that court or to the House of Lords, as the case may be, that the point is one which ought to be considered by that House.
- (3) Section 5 of the <sup>M8</sup>Appellate Jurisdiction Act 1876 (which regulates the composition of the House of Lords for the hearing and determination of appeals) shall apply to the hearing and determination of an appeal or application for leave to appeal under this section as it applies to the hearing and determination of an appeal under that Act; and any order of that House which provides for the hearing of such applications by a committee constituted in accordance with the said section 5 may direct that the decision of that committee shall be taken on behalf of the House.
- (4) For the purpose of disposing of an appeal under this section the House of Lords may exercise any powers of the court below or may remit the case to that court.

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- (5) Schedule 1 shall have effect in relation to appeals under this section.
- (6) In this section, sections 44 and 45 and Schedule 1—
- (a) any reference to the defendant shall be construed—
    - (i) in relation to proceedings for an offence, and in relation to an application for an order of mandamus, prohibition or certiorari in connection with such proceedings, as a reference to the person who was or would have been the defendant in those proceedings;
    - (ii) in relation to any proceedings or order for or in respect of contempt of court, as a reference to the person against whom the proceedings were brought or the order was made;
    - (iii) in relation to a criminal application for habeas corpus, as a reference to the person by or in respect of whom that application was made,and any reference to the prosecutor shall be construed accordingly;
  - (b) “application for habeas corpus” means an application for a writ of habeas corpus ad subjiciendum and references to a criminal application or civil application shall be construed accordingly as the application does or does not constitute a criminal cause or matter;
  - (c) “leave to appeal” means leave to appeal to the House of Lords under this section;
  - (d) an appeal under this section shall be treated as pending until any application for leave to appeal is disposed of and, if leave to appeal is granted, until the appeal is disposed of and an application for leave to appeal shall be treated as disposed of at the expiration of the time within which it may be made, if it is not made within that time.

#### Marginal Citations

M8 1876 c. 59.

## 42 Appeals to House of Lords in civil cases.

- (1) Subject to the provisions of this section and to any restriction imposed by any statutory provision which has effect by virtue of subsection (6), an appeal shall lie to the House of Lords from any order or judgment of the Court of Appeal in any civil cause or matter.
- (2) No appeal shall lie under this section except with the leave of the Court of Appeal or the House of Lords.
- (3) Sections 4 and 5 of the <sup>M9</sup>Appellate Jurisdiction Act 1876 (which respectively provide for the bringing of appeals under that Act by way of petition and regulate the composition of the House for the hearing and determination of such appeals) shall apply to an appeal under this section and to the hearing and determination thereof as they apply respectively to an appeal under that Act and to the hearing and determination thereof.
- (4) The House of Lords may by order provide for the hearing and determination by a Committee of that House of petitions for leave to appeal under this section from the Court of Appeal, and the said section 5 shall apply to the hearing and determination

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of any such petition by a Committee of that House as, by virtue of the last foregoing subsection, it applies to the hearing and determination of an appeal under this section.

- (5) Section 11 of the said Act of 1876 (which relates to the manner in which, and conditions on which, appeals lie to the House of Lords under that Act) shall have effect as if the references therein to that Act included references to this section.
- (6) No appeal from an order or judgment of the Court of Appeal shall, unless it involves a decision of any question as to the validity of any provision made by or under an Act of the Parliament of Northern Ireland or a Measure of the Northern Ireland Assembly, lie under this section in a case where by any statutory provision, including a provision of this Act, it is expressly provided (whatever form of words is used) that that order or judgment is to be final.

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

- C9** S. 42 applied (6.4.2007 with effect in accordance with s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), [ss. 711\(4\), 1034\(1\)](#) (with transitional provisions and savings in [Sch. 2](#))

**Marginal Citations**

- M9** 1876 c. 59.

**43 Appeals to House of Lords from High Court.**

Nothing in this Part of this Act affects the operation of Part II of the <sup>M10</sup>Administration of Justice Act 1969 (which provides that an appeal from the High Court shall in certain circumstances lie direct to the House of Lords).

**Marginal Citations**

- M10** 1969 c. 58.

**44 Appeal in cases of contempt of court.**

- (1) Subject to the provisions of this section, an appeal shall lie under this section from any order or decision of a court in Northern Ireland in the exercise of jurisdiction to punish for contempt of court (including criminal contempt); and in relation to any such order or decision the provisions of this section shall have effect in substitution for any other statutory provision, relating to appeals in civil or criminal proceedings.
- (2) An appeal under this section shall lie in any case at the instance of the defendant and, in the case of an application for committal or attachment, at the instance of the applicant; and the appeal shall lie—
- (a) from an order or decision of any inferior court (including a county court) or of a single judge of the High Court, or of any court having the powers of the High Court or a judge of that court, to the Court of Appeal;
  - (b) from an order or decision of the Court of Appeal (including an order or a decision of that court on an appeal under this section) and from an order or decision of the High Court, other than an order or decision of a single judge thereof, or of the Courts-Martial Appeal Court, to the House of Lords.



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- (3) The court to which an appeal is brought under this section may reverse or vary the order or decision of the court below, and make such other order as may be just; and, without prejudice to the inherent powers of any court referred to in subsection (2), provision may be made by rules of court for authorising the release on bail of an appellant under this section.
- (4) Subsections (2) to (4) of section 41 and paragraph 1 of Schedule 1 shall apply to an appeal to the House of Lords under this section, as they apply to an appeal to that House under the said section 41 except that so much of the said subsection (2) as restricts the grant of leave to appeal shall apply only where the decision of the court below is a decision on appeal to that court under this section.
- (5) In this section “court” includes any tribunal or person having power to punish for contempt; and references in this section to an order or decision of a court in the exercise of jurisdiction to punish for contempt include references—
  - (a) to an order or decision of the High Court or a county court under any statutory provision enabling that court to deal with an offence as if it were contempt of court;
  - (b) to an order or decision of a county court under [<sup>F45</sup>Article 54 or 55 of the County Courts (Northern Ireland) Order 1980 or under Article 34 or 51 of that Order so far as those Articles] confer jurisdiction in respect of contempt of court;
  - (c) to an order or decision of a magistrates’ court under [<sup>F46</sup>Article 112 of the Magistrates’ Courts (Northern Ireland) Order 1981];but do not include references to orders under any provision of, [<sup>F47</sup>the County Courts (Northern Ireland) Order 1980] or the [<sup>F48</sup>Magistrates’ Courts (Northern Ireland) Order 1981], except those referred to in paragraphs (b) and (c).
- (6) This section does not apply to a conviction or sentence in respect of which an appeal lies under [<sup>F49</sup>Part I] of the Criminal Appeal Act or to a decision of the Court of Appeal under that Part of that Act; and for the purposes of that Act and of this subsection an order for the punishment of any person for contempt of court in proceedings in which he has a right of appeal against his sentence shall be treated as a sentence in those proceedings.

#### Textual Amendments

**F45** Words substituted by S.I. 1980/397 (N.I. 3), art. 68(2), **Sch. 1 Pt. II**

**F46** Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), **Sch. 6 para. 51(a)**

**F47** Words substituted by S.I. 1980/397 (N.I. 3), **Sch. 1 Pt. II**

**F48** Words substituted by S.I. 1981/1675 (N.I. 26), art. 170(2), **Sch. 6 para. 51(b)**

**F49** Words substituted by Criminal Appeal (Northern Ireland) Act 1980 (c. 47, SIF 38), s. 51(1), **Sch. 4 para. 16**

## 45 Appeal in habeas corpus proceedings.

- (1) Subject to the provisions of this section, an appeal shall lie, in any proceedings upon application for habeas corpus, whether civil or criminal, against an order for the release of the person restrained as well as against the refusal of such an order.
- (2) No appeal shall lie by virtue of this section from an order made by a single judge on a criminal application for habeas corpus.



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- (3) In relation to a decision of the High Court on a criminal application for habeas corpus, section 41 shall have effect as if so much of subsection (2) of that section as restricts the grant of leave to appeal were omitted.
- (4) Except as provided by paragraph 4 of Schedule 1 in the case of an appeal against an order of the High Court on a criminal application, an appeal brought by virtue of this section shall not affect the right of the person restrained to be discharged in pursuance of the order under appeal and (unless an order under sub-paragraph (1) of that paragraph is in force at the determination of the appeal) to remain at large regardless of the decision on appeal.

## PART IV

### THE CROWN COURT

#### 46 Exclusive jurisdiction in trial on indictment.

- (1) The Crown Court shall be a superior court of record.
- (2) All proceedings on indictment shall be brought before the Crown Court.
- (3) The jurisdiction of the Crown Court under subsection (2) shall include jurisdiction—
  - (a) in proceedings on indictment for offences, wherever committed, which are recognisable under the law of Northern Ireland; and
  - (b) in particular, in proceedings on indictment for offences triable in Northern Ireland by virtue of any jurisdiction in admiralty.
- [<sup>F50</sup>(3A) Sections 280, 281 and 282 of the Merchant Shipping Act 1995 (offences on ships and abroad by British citizens and others) apply in relation to other offences under the law of Northern Ireland as they apply in relation to offences under that Act or instruments under that Act.]
- (4) All courts of assize are hereby abolished, and commissions, whether ordinary or special, to hold any court of assize shall not be issued.
- (5) The jurisdiction conferred on county courts by section 40 of the <sup>M11</sup>County Courts Act (Northern Ireland) 1959 is hereby abolished.
- (6) Subject to any provision contained in or having effect under this Act, all statutory provisions and rules of law relating to the jurisdiction and procedure of any court in connection with indictable offences shall have effect subject only to such modifications as are rendered necessary by the transfer of jurisdiction to the Crown Court in accordance with the preceding provisions of this section.
- (7) Subject to any provision contained in or having effect under this Act and without prejudice to the generality of subsection (6), the transfer of jurisdiction to the Crown Court in accordance with the preceding provisions of this section shall not affect—
  - (a) the practice by which, on any one indictment, the taking of pleas, the trial by jury and the pronouncement of judgment may respectively be by or before different judges;
  - (b) the release, after respite of judgment, of a convicted person on recognizance to come up for judgment if called on, but meanwhile to be of good behaviour;
  - (c) the manner of trying any question relating to the breach of a recognizance; or

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- (d) the manner of execution of any sentence on conviction, or the manner in which any other judgment or order given in connection with trial on indictment may be enforced.

#### Textual Amendments

**F50** S. 46(3A) added (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), Sch. 13 para.52. (with s. 312(1))

#### Marginal Citations

**M11** 1959 c. 25 (N.I.)

### 47 Exercise of jurisdiction by Crown Court.

- (1) All proceedings in the Crown Court shall be heard and disposed of before a single judge, and—
- (a) any Crown Court business may be conducted at any place in Northern Ireland;
  - (b) sittings of the Crown Court at any place may be continuous or intermittent or occasional;
  - (c) judges may sit simultaneously to take any number of different cases in the same or in different places, and all or any of them may adjourn cases from time to time and may do so from place to place at any time.
- (2) The judges of the High Court and the county court shall sit in the Crown Court in accordance with directions given by the [<sup>F51</sup>Lord Chief Justice] and the cases or classes of cases suitable for allocation to judges of the High Court and to county court judges respectively and all other matters relating to the distribution of Crown Court business shall be determined in accordance with directions given by the [<sup>F52</sup>Lord Chief Justice].
- (3) The places at which the Crown Court sits and the days and times when the Crown Court sits at any place shall be determined in accordance with directions given by the [<sup>F53</sup>Lord Chief Justice].
- (4) Subject to [<sup>F54</sup>section 66 (2) of the Criminal Procedure and Investigations Act 1996 (subpoenas not to issue in certain criminal cases) and to]. any provision contained in or having effect under this Act, the Crown Court shall, in relation to the attendance and examination of witnesses, any contempt of court, the enforcement of its orders and all other matters incidental to its jurisdiction, have the like powers, rights and authority as the High Court or the county court.
- (5) Officers of the Crown Court shall be responsible for the keeping of the records of the proceedings of the court, the notification to those concerned of the place and time appointed for any proceedings or other business and such other formal or administrative matters as may be specified by directions given by the Lord Chancellor [<sup>F55</sup>after consultation with the Lord Chief Justice].
- (6) The Royal Ulster Constabulary shall give effect to any orders or directions which may be given to it by the Crown Court.
- [<sup>F56</sup>(7) The Lord Chief Justice may nominate any of the following to exercise his functions under this section—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

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### Textual Amendments

- F51** Words in s. 47(2) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 24\(2\)\(a\)](#); S. I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(a)
- F52** Words in s. 47(2) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 24\(2\)\(b\)](#); S. I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(a)
- F53** Words in s. 47(3) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 24\(3\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(a)
- F54** Words in s. 47(4) inserted (4.7.1996) by virtue of 1996 c. 25, ss. 79(4), [Sch. 4, paras. 1, 28](#) (by virtue of which provisions, the 1996 Act has effect subject to the modification that in its application to N.I. for s. 66(3)(4) of that Act there is substituted s. 66(3)(4) as set out in Sch. 4 para. 28 of the 1996 Act)
- F55** Words in s. 47(5) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 24\(4\)](#); S. I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(a)
- F56** S. 47(7) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 24\(5\)](#); S. I. 2006/1014, [art. 2\(a\)](#), [Sch. 1 para. 12\(a\)](#)

## 48 Committal for trial on indictment.

- (1) A magistrates' court committing a person for trial shall specify the place at which he is to be tried, and in selecting that place shall have regard to—
- the convenience of the defence, the prosecution and the witnesses;
  - the expediting of the trial; and
  - any directions given by the [<sup>F57</sup>Lord Chief Justice] under section 47(2).
- (2) Without prejudice to the preceding provisions of this Act about the distribution of Crown Court business, the Crown Court may give directions or further directions altering the place of any trial on indictment, either by varying the decision of a magistrates' court under subsection (1) or [<sup>F58</sup>by substituting some other place for the place specified in a notice under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 [<sup>F59</sup>or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995](notices of transfer from magistrates' court to Crown Court) or by varying] a previous direction of the Crown Court.
- (3) The defendant or the prosecutor, if dissatisfied with the place of trial as fixed by the magistrates' court [<sup>F60</sup>, as specified in a notice under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 [<sup>F61</sup>or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995] or as fixed] by the Crown Court, may apply to the Crown Court for a direction or further direction varying the place of trial; and the court shall take the matter into consideration and may grant or refuse the application, or give such other direction as the court thinks fit.
- (4) <sup>F62</sup> .....
- (5) The trial of a person committed by a magistrates' court—
- shall not begin until the expiration of the specified period beginning with the date of his committal [<sup>F63</sup>or of the giving of a notice of transfer under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988 [<sup>F64</sup>or under Article 4 of the Children's Evidence (Northern Ireland) Order 1995]], except with his consent and the consent of the prosecutor; and
  - shall, unless the Crown Court has otherwise ordered, begin not later than the expiration of the specified period beginning with the date of his committal [<sup>F63</sup>or of the giving of a notice of transfer under Article 3 of the Criminal

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Justice (Serious Fraud) (Northern Ireland) Order 1988]<sup>F65</sup> or under Article 4 of the Children’s Evidence (Northern Ireland) Order 1995] (that is to say a period longer than the period specified for the purposes of paragraph (a) above for the proceedings in question).

For the purposes of this subsection—

- (i) “the specified period” means such period for the respective purposes of paragraphs (a) and (b) as may be specified by Crown Court rules and the rules may make different provision for different places of trial or for other different circumstances;
- (ii) the trial shall be deemed to begin when the defendant is arraigned.

(6) Directions under subsection (2) may be given on behalf of the Crown Court by an officer of the Crown Court, but the power to make orders conferred on the Crown Court by subsection (5)(b) shall be exercisable only by a judge of the court.

<sup>F66</sup>(6A) Where a preparatory hearing has been ordered under Article 6 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order 1988, directions altering the place of trial may be given under subsection (2) at any time before <sup>F67</sup>the time when the jury are sworn].]

<sup>F68</sup>(6B) The reference in subsection (6A) to the time when the jury are sworn includes the time when the jury would be sworn but for—

- (a) the making of an order under Part 7 of the Criminal Justice Act 2003, or
- (b) the application of <sup>F69</sup>section 5 of the Justice and Security (Northern Ireland) Act 2007] .]

#### Textual Amendments

- F57** Words in s. 48(1)(c) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(2), 148(1), [Sch. 5 para. 25](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(a)
- F58** Words inserted by S.I. 1988/1846 (N.I. 16), art. 12, [Sch. para. 4\(1\)\(a\)](#)
- F59** S. 48(2) amended (8.4.1996) by S.I. 1995/757 (N.I. 3), art. 6(1), [Sch. 2](#), para. 7(a); S.R. 1996/122, [art.2](#)
- F60** Words substituted by S.I. 1988/1846 (N.I. 16), art. 12, [Sch. para. 4\(1\)\(b\)](#)
- F61** S. 48(3) amended (8.4.1996) by S.I. 1995/757 (N.I. 3), art. 6(1), [Sch. 2](#), para. 7(b); S.R. 1996/122, [art. 2](#)
- F62** S. 48(4) repealed (1.5.2004) by [Courts Act 2003 \(c. 39\)](#), ss. 104, 109(3), 110(1), [Sch. 10](#); S.I. 2004/1104, [art. 3\(f\)](#)
- F63** Words inserted by S.I. 1988/1846 (N.I. 16), art. 12, [Sch. para. 4\(1\)\(c\)](#)
- F64** S. 48(5)(a) amended (8.4.1996) by S.I. 1995/757 (N.I. 3), art. 6(1), [Sch. 2](#), para. 7(c); S.R. 1996/122, [art.2](#)
- F65** S. 48(5)(b) amended (8.4.1996) by S.I. 1995/757 (N.I. 3), art. 6(1), [Sch. 2](#), para. 7(c); S.R. 1996/122, [art. 2](#)
- F66** S. 48(6A) inserted by S.I. 1988/1846 (N.I. 16), art. 12, [Sch. para. 4\(1\)\(d\)](#)
- F67** Words in s. 48(6A) substituted (24.7.2006 for E.W. and 8.1.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 331, 336(3), 337(7)(g), [Sch. 36 para. 45\(2\)](#); S.I. 2006/1835, [art. 2\(h\)](#) (subject to art. 3); S.I. 2006/3422, [art. 2\(c\)\(i\)](#)
- F68** S. 48(6B) inserted (24.7.2006 for E.W. and 8.1.2007 for N.I.) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 331, 336(3), 337(7)(g), [Sch. 36 para. 45\(3\)](#); S.I. 2006/1835, [art. 2\(h\)](#) (subject to art. 3); S.I. 2006/3422, [art. 2\(c\)\(i\)](#)
- F69** Words in s. 48(6B)(b) substituted (1.8.2007) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 331, 336(3), 337(7)(g), [Sch. 36 Pt. 4 para. 45\(1\)\(2\)](#) (as amended by [Justice and Security \(Northern Ireland\) Act 2007 \(c. 6\)](#), ss. 8, 53, [Sch. 1 para. 4](#); S.I. 2007/2045, [art. 2\(2\)\(3\)\(h\)\(q\)](#) (with art. 3); with saving (N.I.)

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(at the end of 31.7.2007) by The Terrorism (Northern Ireland) Act 2006 (Transitional Provisions and Savings) Order 2007 (S.I. 2007/2259), **art. 2**)

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

- C10** S. 48 amended by Northern Ireland (Emergency Provisions) Act 1978 (c. 5, SIF 39:1), **s. 6**  
S. 48 extended (27.8.1991) by Northern Ireland (Emergency Provisions) Act 1991 (c. 24, SIF 39:1), **ss. 9(2), 69(1)**
- C11** S. 48 extended (25.8.1996) by 1996 c. 22, **ss. 10(2), 62(1)** (with s. 62(2))  
S. 48 applied (N.I.) (19.2.2001) by 2000 c. 11, ss. 74(2), 128 (with s. 113(1)); S.I. 2001/421, **art. 2** (with **art. 3**)
- C12** S. 48 applied (1.8.2007) by Justice and Security (Northern Ireland) Act 2007 (c. 6), **ss. 4(3), 53**; S.I. 2007/2045, **art. 2(2)(3)(d)** (with **art. 3**)

### **49 Sentences imposed and other decisions made by Crown Court.**

- (1) A sentence imposed, or other order made, by the Crown Court when dealing with an offender shall take effect from the beginning of the day on which it is imposed or made, unless the court otherwise directs.
- (2) Subject to the following provisions of this section, a sentence imposed, or other order made, by the Crown Court when dealing with an offender may be varied or rescinded by the Crown Court within the period of [<sup>F70</sup>56 days] beginning with the day on which the sentence or other order was imposed or made <sup>F71</sup> . . . .
- [<sup>F72</sup>(2A) The power conferred by subsection (1) may not be exercised in relation to any sentence or order if an appeal, or an application for leave to appeal, against that sentence or order has been determined.]
- (3) <sup>F73</sup> . . . . .
- (4) A sentence or other order shall not be varied or rescinded under this section except by the judge of the Crown Court by whom the sentence or other order was imposed or made.
- (5) Subject to subsection (6), where a sentence or other order is varied under this section, the sentence or other order, as so varied, shall take effect from the beginning of the day on which it was originally imposed or made, unless the court otherwise directs.
- (6) For the purposes of [<sup>F74</sup>section 16(1)] of the Criminal Appeal Act (time limit for notice of appeal or of application for leave to appeal) [<sup>F75</sup>and for the purposes of paragraph 1 of Schedule 3 to the Criminal Justice Act 1988 (time limit for notice of an application for leave to refer a case under section 36 of that Act.)] the sentence or other order shall be regarded as imposed or made on the day on which it is so varied.
- (7) Crown Court rules—
- (a) may, as respects cases where two or more persons are tried separately on the same or related facts alleged in one or more indictment, provide for extending the period prescribed by subsection (2);
  - (b) may, subject to the preceding provisions of this section, prescribe the cases and circumstances in which, and the time within which, any order or other decision made by the Crown Court may be varied or rescinded by the Crown Court.

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### Textual Amendments

- F70** Words in s. 49(2) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 47, 153\(7\), Sch. 8 para. 27\(2\)\(a\)](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 26 (with Sch. 2)
- F71** Words in s. 49(2) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 47, 153\(7\), Sch. 8 para. 27\(2\)\(b\)](#) {Sch. 28 Pt. 3}; S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 paras. 26, 50(3)(b) (with Sch. 2)
- F72** S. 49(2A) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 47, 153\(7\), Sch. 8 para. 27\(3\)](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 26 (with Sch. 2)
- F73** S. 49(3) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 47, 153\(7\), Sch. 8 para. 27\(4\)](#) {Sch. 28 Pt. 3}; S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 paras. 26, 50(3)(b) (with Sch. 2)
- F74** Words substituted by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\), s. 51\(1\), Sch. 4 para. 17](#)
- F75** Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\), ss. 170, 171, Sch. 15 para. 56](#)

## 50 Right of audience.

- (1) A solicitor of the Supreme Court may appear in, conduct, defend and address the court in any proceedings in the Crown Court, other than proceedings of such description (if any) as may from time to time be specified in directions given by the Lord Chief Justice under this section.
- (2) In considering whether to exercise his powers under this section the Lord Chief Justice shall have regard to any rights of audience heretofore exercised by solicitors at any trials on indictment and to any other circumstances affecting the public interest.
- (3) Any direction given under this section may be subject to such conditions and restrictions as appear to the Lord Chief Justice to be necessary or expedient.
- (4) Nothing in this section shall take away or affect the inherent powers of any court or judge to confer a right of audience.

## 51 Process to compel appearance before Crown Court.

- (1) Any condition of a recognizance to appear before the Crown Court and any summons or order to appear before the Crown Court may be framed so as to require appearance at such time and place as may be directed by the Crown Court, and, if a time or place is specified in the condition, summons or order, it may be varied by any subsequent direction of the Crown Court.
- (2) Where an indictment has been presented although the person charged has not been committed for trial, the Crown Court may issue a summons requiring that person to appear before the Crown Court or a warrant for his arrest.
- (3) Where any person charged with or convicted of an offence has entered into a recognizance conditioned for his appearance before the Crown Court and in breach of that recognizance fails to appear, the Crown Court may, without prejudice to the enforcement of the recognizance, issue a warrant for his arrest.
- (4) The Crown Court may admit to bail, or direct the admission to bail of, any person—
  - (a) who has been committed in custody for appearance before the Crown Court <sup>[F76]</sup>or in relation to whose case a notice of transfer has been given under Article 3 of the Criminal Justice (Serious Fraud) (Northern Ireland) Order



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1988]]<sup>F77</sup>(serious and complex fraud) or under Article 4 of the Children’s Evidence (Northern Ireland) Order 1995 (certain cases involving children)];  
or

- (b) who is in the custody of the Crown Court pending the disposal of his case by the Crown Court,

and the time during which a person is admitted to bail under any provision of this subsection shall not count as part of any term of imprisonment or detention under his sentence.

- (5) Provision may be made by Crown Court rules as respects the powers of the Crown Court relating to bail, including any provision—

- (a) allowing the court, instead of requiring a person to enter into a recognizance, to consent to his giving other security;
- (b) allowing the court to direct that a recognizance shall be entered into or other security given before a magistrates’ court <sup>F78</sup> . . . or, if the rules so provide, a person of such other description as is specified in the rules;
- (c) prescribing the manner in which a recognizance is to be entered into or other security given and the persons by whom and the manner in which the recognizance or security may be enforced;
- (d) authorising the committal, in such cases and by such courts <sup>F78</sup> . . . as may be prescribed by the rules, of persons released from custody in pursuance of the powers;
- (e) making provision as to the varying or dispensing with requirements as to sureties and the postponement of taking recognizances.

- (6) Any reference in any statutory provision to a recognizance shall include, unless the context otherwise requires, a reference to any other description of security given instead of a recognizance, whether in pursuance of subsection (5)(a) or otherwise.

- (7) The Crown Court, on issuing a warrant for the arrest of any person, may endorse the warrant for bail, and in any such case—

- (a) the person arrested under the warrant shall, unless the Crown Court otherwise directs, be taken to a police station, and
- (b) the officer in charge of the station shall release him from custody if he, and any sureties required by the endorsement and approved by the officer, enter into recognizances of such amount as may be fixed by the endorsement.

- (8) A person in custody in pursuance of a warrant issued by the Crown Court with a view to his appearance before the Crown Court shall be brought forthwith before either the Crown Court or any magistrates’ court, and if he is brought before a magistrates’ court—

- (a) the court shall commit him in custody or release him on bail until he can be brought or appear before the Crown Court at the time and place appointed by the Crown Court; and
- (b) if the warrant is endorsed for bail but the person in custody is unable to satisfy the conditions endorsed, the magistrates’ court may vary those conditions if satisfied that it is proper to do so.

#### Textual Amendments

**F76** Words inserted by S.I. 1988/1846 (N.I. 16), art. 12, Sch. para. 4(2)

**F77** S. 51(4)(a) amended (8.4.1996) by S.I. 1995/757(N.I. 3), art. 6(1), Sch. 2 para. 8; S.R. 1996/122 art. 2



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**F78** Words in s. 51(5) repealed (1.4.2005) by 2002 c. 26, ss. 86, 87(1), Sch. 13; S.R. 2005/109, art. 2, Sch.

[<sup>F79</sup>**51A Issue of witness summons on application to Crown Court.**

- (1) This section applies where the Crown Court is satisfied that—
  - (a) a person is likely to be able to give evidence likely to be material evidence, or produce any document or thing likely to be material evidence, for the purpose of any criminal proceedings before the Crown Court, and
  - [<sup>F80</sup>(b) it is in the interests of justice to issue a summons under this section to secure the attendance of that person to give evidence or to produce the document or thing.]
- (2) In such a case the Crown Court shall, subject to the following provisions of this section, issue a summons (a witness summons) directed to the person concerned and requiring him to—
  - (a) attend before the Crown Court at the time and place stated in the summons, and
  - (b) give the evidence or produce the document or thing.
- (3) A witness summons may only be issued under this section on an application; and the Crown Court may refuse to issue the summons if any requirement relating to the application is not fulfilled.
- (4) Where a person has been committed for trial for any offence to which the proceedings concerned relate, an application must be made as soon as is reasonably practicable after the committal.
- (5) Where the proceedings concerned have been transferred to the Crown Court, an application must be made as soon as is reasonably practicable after the transfer.
- (6) Where the proceedings concerned relate to an offence in relation to which an indictment has been presented under the authority of section 2(2)(c), (d), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969, an application must be made as soon as is reasonably practicable after the indictment is presented.
- (7) An application must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.
- (8) Crown Court rules—
  - (a) may, in such cases as the rules may specify, require an application to be made by a party to the case;
  - (b) may, in such cases as the rules may specify, require the service of notice of an application on the person to whom the witness summons is proposed to be directed;
  - (c) may, in such cases as the rules may specify, require an application to be supported by an affidavit containing such matters as the rules may stipulate;
  - (d) may, in such cases as the rules may specify, make provision for enabling the person to whom the witness summons is proposed to be directed to be present or represented at the hearing of the application for the witness summons.
- (9) Provision contained in Crown Court rules by virtue of subsection (8)(c) may in particular require an affidavit to—
  - (a) set out any charge on which the proceedings concerned are based;

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- (b) specify any stipulated evidence, document or thing in such a way as to enable the directed person to identify it;
  - (c) specify grounds for believing that the directed person is likely to be able to give any stipulated evidence or produce any stipulated document or thing;
  - (d) specify grounds for believing that any stipulated evidence is likely to be material evidence;
  - (e) specify grounds for believing that any stipulated document or thing is likely to be material evidence.
- (10) In subsection (9)—
- (a) references to any stipulated evidence, document or thing are to any evidence, document or thing whose giving or production is proposed to be required by the witness summons;
  - (b) references to the directed person are to the person to whom the witness summons is proposed to be directed.]

#### Textual Amendments

- F79** Ss. 51A-51H inserted (4.7.1996) by virtue of 1996 c. 25, s. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application to N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act) (with s. 78(1))
- F80** S. 51A(1)(b) substituted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 169(5), 178(8); S.I. 2005/1521, art. 3(bb)

#### <sup>F81</sup>51B Power to require advance production.

A witness summons which is issued under section 51A and which requires a person to produce a document or thing as mentioned in section 51A(2) may also require him to produce the document or thing—

- (a) at a place stated in the summons, and
- (b) at a time which is so stated and precedes that stated under section 51A(2), for inspection by the person applying for the summons.

#### Textual Amendments

- F81** Ss. 51A-51H inserted (4.7.1996) by virtue of 1996 c. 25, s. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application to N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act) (with s. 78 (1))

#### <sup>F82</sup>51C Summons no longer needed.

- (1) If—
- (a) a document or thing is produced in pursuance of a requirement imposed by a witness summons under section 51B,
  - (b) the person applying for the summons concludes that a requirement imposed by the summons under section 51A(2) is no longer needed, and

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- (c) he accordingly applies to the Crown Court for a direction that the summons shall be of no further effect,  
the court may direct accordingly.
- (2) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.
- (3) Crown Court rules may, in such cases as the rules may specify, require the effect of a direction under this section to be notified to the person to whom the summons is directed.

#### Textual Amendments

**F82** Ss. 51A-51H inserted (4.7.1996) by virtue of 1996 c. 25, s. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application to N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act) (with s. 78(1))

#### <sup>F83</sup> 51D Application to make summons ineffective.

- (1) If a witness summons issued under section 51A is directed to a person who—
  - (a) applies to the Crown Court,
  - (b) satisfies the court that he was not served with notice of the application to issue the summons and that he was neither present nor represented at the hearing of the application, and
  - (c) satisfies the court that he cannot give any evidence likely to be material evidence or, as the case may be, produce any document or thing likely to be material evidence,the court may direct that the summons shall be of no effect.
- (2) For the purposes of subsection (1) it is immaterial—
  - (a) whether or not Crown Court rules require the person to be served with notice of the application to issue the summons;
  - (b) whether or not Crown Court rules enable the person to be present or represented at the hearing of the application.
- (3) In subsection (1)(b) “served” means—
  - (a) served in accordance with Crown Court rules, in a case where such rules require the person to be served with notice of the application to issue the summons;
  - (b) served in such way as appears reasonable to the Crown Court, in any other case.
- (4) The Crown Court may refuse to make a direction under this section if any requirement relating to the application under this section is not fulfilled.
- (5) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.
- (6) Crown Court rules may, in such cases as the rules may specify, require the service of notice of an application under this section on the person on whose application the witness summons was issued.

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- (7) Crown Court rules may, in such cases as the rules may specify, require that where—
- (a) a person applying under this section can produce a particular document or thing, but
  - (b) he seeks to satisfy the court that the document or thing is not likely to be material evidence,
- he must arrange for the document or thing to be available at the hearing of the application.
- (8) Where a direction is made under this section that a witness summons shall be of no effect, the person on whose application the summons was issued may be ordered to pay the whole or any part of the costs of the application under this section.
- (9) Any costs payable under an order made under subsection (8) shall be taxed by the Master (Taxing Office), and payment of those costs shall be enforceable in the same manner as an order for payment of costs made by the High Court in a civil case or as a sum adjudged summarily to be paid as a civil debt.

#### Textual Amendments

**F83** Ss. 51A-51H inserted (4.7.1996) by virtue of 1996 c.25, ss. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application to N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act) (with s. 78(1))

#### <sup>F84</sup> 51E Issue of witness summons of Crown Court's own motion.

For the purpose of any criminal proceedings before it, the Crown Court may of its own motion issue a summons (a witness summons) directed to a person and requiring him to—

- (a) attend before the court at the time and place stated in the summons; and
- (b) give evidence or produce any document or thing specified in the summons.

#### Textual Amendments

**F84** Ss. 51A-51H inserted (4.7.1996) by virtue of 1996 c. 25, ss. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application to N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act) (with s. 78(1))

#### <sup>F85</sup> 51F Application to make summons ineffective.

- (1) If a witness summons issued under section 51E is directed to a person who—
  - (a) applies to the Crown Court, and
  - (b) satisfies the court that he cannot give any evidence likely to be material evidence or, as the case may be, produce any document or thing likely to be material evidence,
 the court may direct that the summons shall be of no effect.
- (2) The Crown Court may refuse to make a direction under this section if any requirement relating to the application under this section is not fulfilled.

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- (3) An application under this section must be made in accordance with Crown Court rules; and different provision may be made for different cases or descriptions of case.
- (4) Crown Court rules may, in such cases as the rules may specify, require that where—
  - (a) a person applying under this section can produce a particular document or thing, but
  - (b) he seeks to satisfy the court that the document or thing is not likely to be material evidence,he must arrange for the document or thing to be available at the hearing of the application.

#### Textual Amendments

**F85** Ss. 51A-51H inserted (4.7.1996) by virtue of 1996 c. 25 s. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application to N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act) (with s. 78(1))

#### **F86** 51G Punishment for disobedience to witness summons.

- (1) Any person who without just excuse—
  - (a) disobeys a witness summons requiring him to attend before the Crown Court; or
  - (b) disobeys a requirement made by the Crown Court under section 51B,shall be guilty of contempt of that court and may be punished summarily by that court as if his contempt were in the face of the court.
- (2) A person shall not be committed to prison by reason of any disobedience mentioned in subsection (1) for a period exceeding three months.

#### Textual Amendments

**F86** Ss. 51A- 51H inserted (4.7.1996) by virtue of 1996 c.25, s. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application to N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act) (with s. 78(1))

#### **F87** 51H Further process to secure attendance of witnesses.

- (1) If the Crown Court is satisfied by evidence on oath that—
  - (a) a witness in respect of whom a witness summons is in force is unlikely to comply with the summons; and
  - (b) the witness is likely to be able to give evidence likely to be material evidence or produce any document or thing likely to be material evidence in the proceedings,the Crown Court may issue a warrant to arrest the witness and bring him before the court.

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- (2) Where a witness who is required to attend before the Crown Court by virtue of a witness summons fails to attend in compliance with the summons, the Crown Court may—
- (a) in any case, cause to be served on him a notice requiring him to attend the court forthwith or at such time as may be specified in the notice;
  - (b) if the court is satisfied that there are reasonable grounds for believing that he has failed to attend without just excuse, or if he has failed to comply with a notice under paragraph (a), issue a warrant to arrest him and bring him before the court.
- (3) A witness brought before the Crown Court in pursuance of a warrant under this section may be remanded by that court in custody or on bail (with or without sureties) until such time as the court may appoint for receiving his evidence or dealing with him under section 51G.
- (4) Where a witness attends the Crown Court in pursuance of a notice under this section, the court may direct that the notice shall have effect as if it required him to attend at any later time appointed by the court for receiving his evidence or dealing with him under section 51G.”
- (2) No subpoena ad testificandum or subpoena duces tecum shall issue after the appointed day in respect of any criminal proceedings for the purposes of which—
- (a) a witness summons may be issued under section 51A of the Judicature (Northern Ireland) Act 1978; or
  - (b) a summons may be issued under Article 118 of the Magistrates’ Courts (Northern Ireland) Order 1981 (process for attendance of witnesses in magistrates’ courts).
- (3) In section 47(4) of the Judicature (Northern Ireland) Act 1978 after the words “Subject to” there shall be inserted the words “section 66(2) of the Criminal Procedure and Investigations Act 1996 (subpoenas not to issue in certain criminal cases) and to”.
- (4) This section applies in relation to any proceedings for the purposes of which no summons requiring the attendance of a witness has been issued before the appointed day.
- (5) The references in subsections (2) and (4) to the appointed day are to such day as is appointed for the purposes of this section by the Secretary of State by order.

#### Textual Amendments

**F87** Ss. 51A-51H inserted (4.7.1996) by virtue of 1996 c. 25, s. 79(4), Sch. 4 paras. 1, 28 (by virtue of which provisions the 1996 Act has effect, subject to the modification that in its application N.I. for s. 66(1)(4) of that Act there is substituted s. 66(1)(4) as set out in Sch. 4 para. 28 of the 1996 Act)(with s. 78(1))

## 52 Crown Court rules.

- [<sup>F88</sup>(1) Subject to any statutory provision, Crown Court rules may be made in accordance with section 53A for the purpose of regulating and prescribing—]
- (a) the practice and procedure to be followed in the Crown Court; and
  - (b) the form and content of indictments,

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and in this or any other statutory provision having effect in Northern Ireland “Crown Court rules” means rules so made.

- (2) Sections 1 and 2 of the <sup>M12</sup>Indictments Act (Northern Ireland) 1945 shall cease to have effect on such date as may be appointed in Crown Court rules made for the purpose mentioned in subsection (1)(b).

#### Textual Amendments

**F88** Words in s. 52(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 26; S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(a)

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

**C13** S. 52 extended (4.7.1996) by 1996 c. 25, s. 79, Sch. 4 para.12 (with s.78(1))

#### Marginal Citations

**M12** 1945 c. 16 (N.I.)

### 53 Crown Court Rules Committee.

- (1) There shall be a committee known as the Northern Ireland Crown Court Rules Committee (in this Act referred to as the Crown Court Rules Committee) which, subject to section 54(2), shall consist of—

- (a) the Lord Chief Justice who shall be chairman;
- (b) two judges of the High Court or the Court of Appeal nominated from time to time by the Lord Chief Justice;
- (c) two county court judges nominated by the <sup>F89</sup>Lord Chief Justice];
- (d) a resident magistrate nominated by the <sup>F89</sup>Lord Chief Justice];
- (e) the Master (Queen’s Bench and Appeals);
- (f) a practising member of the Bar of Northern Ireland nominated by the Lord Chancellor;
- (g) one other practising member of the Bar of Northern Ireland nominated by the Council thereof;
- (h) the president of the Incorporated Law Society of Northern Ireland or a member of the Council thereof nominated by him;
- (i) a practising solicitor nominated by that Council;

and shall have the functions conferred on it in relation to the making of Crown Court rules by section 52.

- <sup>F90</sup>(1A) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (1)(c) or (d)—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

- (2) The <sup>F91</sup>joint secretaries to the Crown Court Rules Committee shall be the Principal Secretary to the Lord Chief Justice and a person designated by the Lord Chancellor; and whichever of them is nominated by the Lord Chancellor] shall, in relation to Crown Court rules, be the responsible officer within the meaning of <sup>F92</sup>Articles 5 and 7 of the Statutory Rules (Northern Ireland) Order 1979].



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- (3) Sections 54(2), (3), (4) and (6), 55(3) and [F9356(1)(2) and (2A)] shall apply to the Crown Court Rules Committee and Crown Court rules as if references in those provisions to the Rules Committee and rules of court included references to the Crown Court Rules Committee and Crown Court rules respectively.

#### Textual Amendments

- F89** Words in s. 53(1)(c)(d) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 27\(2\)](#); [S. I. 2006/1014, art. 2\(a\)](#), Sch. 1 para. 12(a)
- F90** S. 53(1A) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 27\(3\)](#); [S. I. 2006/1014, {art. 2\(a\), Sch. 1 para. 12\(a\)}](#)
- F91** Words in s. 53(2) substituted (15.10.2002) by [2002 c. 26, s. 17\(2\)](#); [S.R. 2002/319, art. 2, Sch.](#)
- F92** Words substituted by [S.I. 1979/1573 \(N.I. 12\), art. 11\(1\), Sch. 4 para. 22 \(a\)](#)
- F93** Words substituted by virtue of [S.I. 1979/1573 \(N.I. 12\), Sch. 4 para. 22\(a\)](#) and [Administration of Justice Act 1982 \(c. 53, SIF 38\), Sch. 8 para. 4](#)

#### [F9453A Making of Crown Court rules

- (1) It is for the Crown Court Rules Committee to make Crown Court rules.
- (2) After making Crown Court rules the Committee must submit them to the Lord Chancellor.
- (3) The Lord Chancellor must allow or disallow Crown Court rules submitted to him.
- (4) Crown Court rules have effect only if allowed by the Lord Chancellor.
- (5) If the Lord Chancellor disallows Crown Court rules, the Lord Chancellor must give the Committee written reasons why he has disallowed them.
- (6) Subsection (7) applies if the Lord Chancellor gives the Committee written notice that he thinks it is expedient for Crown Court rules to include provision that would achieve a purpose specified in the notice.
- (7) The Committee must make such Crown Court rules as it considers necessary to achieve the specified purpose.
- (8) Those Crown Court rules must be—
  - (a) made within a reasonable period after the Lord Chancellor gives notice under subsection (6);
  - (b) made in accordance with this section.]

#### Textual Amendments

- F94** S. 53A inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 28](#); [S. I. 2006/1014, art. 2\(a\)](#), Sch. 1 para. 12(a)



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## PART V

### PRACTICE, PROCEDURE AND TRIALS

#### 54 The Supreme Court Rules Committee.

- (1) There shall be a committee known as the Northern Ireland Supreme Court Rules Committee (in this Act referred to as the Rules Committee) which, subject to subsection (2), shall consist of—
  - (a) the Lord Chief Justice who shall be chairman;
  - (b) four judges of the High Court or the Court of Appeal nominated from time to time by the Lord Chief Justice;
  - (c) a practising member of the Bar of Northern Ireland nominated by the Lord Chancellor;
  - (d) one other practising member of the Bar of Northern Ireland nominated by the Council thereof;
  - (e) the president of the Incorporated Law Society of Northern Ireland or a member of the Council thereof nominated by him; and
  - (f) a practising solicitor nominated by that Council,and shall have the functions conferred on it in relation to the making of rules of court by section 55.
- (2) Where any member of the Rules Committee is unable to act, the Lord Chief Justice or, in the case of a member nominated by any other authority or body, that authority or body may nominate another qualified person to act temporarily in his place.
- (3) Rules of court may be made and other powers of the Rules Committee exercised at a meeting of the Rules Committee by a majority consisting of not less than four members of whom the chairman of the meeting shall be one.
- (4) In the absence of the Lord Chief Justice, the senior judge present shall be chairman of the meeting.
- (5) The joint secretaries to the Rules Committee shall be [<sup>F95</sup>the Principal Secretary to the Lord Chief Justice and a person designated by the Lord Chancellor.].
- (6) Any expenses incurred by the Rules Committee shall be paid by the Lord Chancellor.

#### Textual Amendments

**F95** Words in s. 54(5) substituted (15.10.2002) by 2002 c. 26, s. 17(3); S.R. 2002/319, art. 2 Sch.

#### 55 Rules of Court.

- [<sup>F96</sup>(1) Subject to any statutory provision, rules may be made in accordance with section 55A with respect to—]
- (a) the pleading, practice and procedure in or affecting, and the forms used in connection with, any proceedings before the High Court and the Court of Appeal or any division, office, judge or officer of either such court or any person appointed by, or to assist, it including—
    - (i) the mode of proof of any fact;
    - (ii) the assessment of damages, compensation or other sums;

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- (iii) the payment of money into and out of court;
  - (iv) the circumstances in which and the terms on which a stay of proceedings or execution may be granted or an interim order (including an order authorising interim payments) may be made;
  - (v) costs (including the taxation of costs and security to be given for costs);
  - (vi) the recording of proceedings and the making available of transcripts thereof; and
  - (vii) the impounding and release of documents or exhibits;
  - (b) the conditions subject to which process may be served out of the jurisdiction of the High Court;
  - (c) the manner in which, the time within which and the conditions on which steps in any such proceedings as are mentioned in paragraph (a) may or must be taken;
  - (d) the transfer of proceedings to or from any such court, division, judge, officer or person as is mentioned in that paragraph;
  - (e) the practice and procedure of the High Court in non-contentious probate business;
  - (f) the practice and procedure to be followed in exercising jurisdiction over the person, property or affairs of persons under any disability; and
  - (g) the extent to which and the circumstances in which documents filed in any such proceedings as are mentioned in paragraph (a) may be inspected and copied.
- (2) [<sup>F97</sup>Subject to any statutory provision, rules may be made in accordance with section 55A—]
- (a) regulating the sittings of any court, division or judge to which or to whom subsection (1)(a) applies and any sittings of statutory officers or persons appointed by, or to assist, such a court;
  - (b) authorising the exercise by a judge of the High Court of jurisdiction while sitting in chambers and prescribing when a judge exercising such jurisdiction is to be deemed to constitute the High Court or a court of the High Court;
  - (c) providing for the distribution of business of the High Court amongst the several divisions of that court;
  - [<sup>F98</sup>(cc) providing for any prescribed part of the jurisdiction of the High Court in relation to the trial of any action involving matters of account to be exercised in the prescribed manner by a person agreed by the parties and for the remuneration of any such person;]
  - (d) requiring any prescribed part of the jurisdiction of the High Court to be exercised by two or more judges sitting together and fixing the number of judges by whom it shall be exercised;
  - (e) prescribing what part of the business which may be transacted and of the jurisdiction which may be exercised by the High Court and the Court of Appeal may be transacted or exercised by statutory officers or officers serving in the Supreme Court and providing for the review of any jurisdiction exercised by such officers;
  - (f) regulating or providing for any other matter with respect to which the Committee is authorised to make rules under any other statutory provision (including any other provision of this Act) or for which provision was

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- heretofore contained in rules of court made or deemed to have been made under section 7 of the <sup>M13</sup>Northern Ireland Act 1962;
- (g) regulating or providing for any matter relating to practice or procedure heretofore regulated or provided for by a statutory provision repealed by section 122 and Schedule 7; and
  - (h) generally for the purposes of carrying any of the provisions of this Act into effect.
- (3) Rules [<sup>F99</sup>made under this section] may amend or repeal any statutory provision in force immediately before the commencement of this section or any statutory provision (including a provision of this Act) re-enacting any such statutory provision so far as may be necessary or expedient in consequence of provision made by the rules.

#### Textual Amendments

- F96** Words in s. 55(1) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 29\(2\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(a)
- F97** Words in s. 55(2) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 29\(3\)](#); S. I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(a)
- F98** S. 55(2)(cc) added (31.1.1997) by [1996 c. 23, s. 107\(1\), Sch. 3, para. 34\(3\)](#); S.I 1996/3146, art.3 (subject to art. 4, Sch. 2)
- F99** Words in s. 55(3) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 29\(4\)](#); S. I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(a)

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

- C14** S. 55 extended (N.I.) (18.6.2001) by [2000 c. 8, s. 215\(8\)\(c\)](#); S.I. 2001/1820, [art. 2, Sch.](#)

#### Marginal Citations

- M13** 1962 c. 30.

### [<sup>F100</sup>55A Making of rules of Court

- (1) It is for the Rules Committee to make rules under section 55(1) or (2).
- (2) After making such rules the Rule Committee must submit them to the Lord Chancellor.
- (3) The Lord Chancellor must allow or disallow rules submitted to him.
- (4) Rules submitted to the Lord Chancellor have effect only if allowed by him.
- (5) If the Lord Chancellor disallows rules submitted to him, he must give the Committee written reasons why he has disallowed them.
- (6) Subsection (7) applies if the Lord Chancellor gives the Rules Committee written notice that he thinks it is expedient for rules under section 55(1) or (2) to include provision that would achieve a purpose specified in the notice.
- (7) The Rules Committee must make such rules as it considers necessary to achieve the specified purpose.
- (8) Those rules must be—
  - (a) made within a reasonable period after the Lord Chancellor gives notice under subsection (6);
  - (b) made in accordance with this section.]

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#### Textual Amendments

**F100** S. 55A inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 30](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(a)

### 56 Control and publication of rules.

- (1) Rules made by the Rules Committee shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the <sup>M14</sup>Statutory Instruments Act 1946 shall apply accordingly.
- (2) The Rules Committee shall not, except with the concurrence of the Treasury, make a rule which may involve an increase in expenditure out of public funds; but the validity of such a rule shall not, in any proceedings in any court, be called in question either by the court or by any party to the proceedings on the ground only that the Treasury did not concur or are not expressed to have concurred in the making of the rule.
- [<sup>F101</sup>(2A) Rules made by the Rules Committee shall be statutory rules for the purposes of the Statutory Rules (Northern Ireland) Order 1979.]
- (3) ..... <sup>F102</sup>
- (4) Such of the joint secretaries to the Rules Committee as the Lord Chancellor may designate shall, in relation to rules of court, be the responsible officer within the meaning of [<sup>F103</sup>Articles 5 and 7 of the Statutory Rules (Northern Ireland) Order 1979].

#### Textual Amendments

**F101** S. 56(2A) inserted by [Administration of Justice Act 1982 \(c. 53, SIF 38\), Sch. 8 para. 5](#)

**F102** S. 56(3) repealed by [S.I. 1979/1573 \(N.I. 12\), art. 11\(2\), Sch. 5](#)

**F103** Words substituted by [S.I. 1979/1573 \(N.I. 12\), Sch. 4 para. 23](#)

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

**C15** S. 56 excluded (11.3.2005) by [Prevention of Terrorism Act 2005 \(c. 2\), s. 11\(5\), Sch. para. 3\(7\)\(b\)](#)

**C16** S. 56 excluded (27.11.2008) by [Counter-Terrorism Act 2008 \(c. 28\), ss. 72\(6\)\(b\), 100\(2\) \(with s. 101\(2\)\)](#)

#### Marginal Citations

**M14** 1946 c. 36.

### 57 High Court and Court of Appeal to be continuing courts.

- (1) The High Court and the Court of Appeal shall be continuing courts with vacations regulated by rules of court.
- (2) Rules of court shall provide for the hearing during vacation by judges and officers of the High Court and the Court of Appeal of all such causes and matters as may require to be immediately or promptly heard.

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## 58 Sittings of High Court and Court of Appeal.

- (1) Subject to rules of court, such numbers of judges and courts shall sit as may be required to dispose of the business of the High Court and the Court of Appeal.
- (2) The places at which the High Court and the Court of Appeal sit outside the Royal Courts of Justice and the places outside the Royal Courts of Justice at which any other business of those courts may be conducted shall be determined in accordance with directions given by the [<sup>F104</sup>Lord Chief Justice].
- (3) The High Court may, on the application of any party to an action or issue to be tried by the court, order that the trial be held in some other place if the court is of opinion that it would be more just or convenient for the trial to be so held.
- [<sup>F105</sup>(4) The Lord Chief Justice may nominate any of the following to exercise his functions under this section—
  - (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

### Textual Amendments

**F104** Words in s. 58(2) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 31\(2\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(a)

**F105** S. 58(4) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 148\(1\), Sch. 5 para. 31\(3\)](#); S. I. 2006/1014, [art. 2\(a\)](#), [Sch. 1 para. 12\(a\)](#)

## 59 Award of costs.

- (1) Subject to the provisions of this Act and to rules of court and to the express provisions of any other statutory provision, the costs of and incidental to all proceedings in the High Court and the Court of Appeal, including the administration of estates and trusts, shall be in the discretion of the court and the court shall have power to determine by whom and to what extent the costs are to be paid.
- (2) Save as otherwise provided by any statutory provision passed after this Act or by rules of court, if damages or other relief awarded could have been obtained in proceedings commenced in the county court, the plaintiff shall not, except for special cause shown and mentioned in the judgment making the award, recover more costs than would have been recoverable had the same relief been awarded by the county court.
- (3) Where any statutory provision whether passed before or after the commencement of this Act confers jurisdiction on the High Court or any judge thereof in regard to any matter without expressly conferring jurisdiction to award or deal otherwise with the costs of the proceedings connected with that matter, subsection (1) shall apply so as to authorise the court or judge, in its or his discretion, to award and deal with such costs.
- (4) Nothing in this section shall alter the practice in any criminal cause or matter.

## 60 Taxation of costs.

- (1) The jurisdiction of the High Court, the Court of Appeal and the Crown Court in relation to the taxation of costs shall be vested in the Master (Taxing Office) or such other

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statutory officer as may be designated for the purpose by the [<sup>F106</sup>Lord Chief Justice] and shall be exercised in accordance with rules of court.

(2) Costs may be taxed and recovered in any action notwithstanding the death of the party to or against whom those costs were awarded.

[<sup>F107</sup>(3) The Lord Chief Justice may nominate any of the following to exercise his functions under this section—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

**F106** Words in s. 60(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 32(2); S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(a)

**F107** S. 60(3) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 32(3); S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(a)

#### 61 Trial with assessors.

(1) In any cause or matter before the High Court or the Court of Appeal, other than a criminal proceeding by or in the name of the Crown, the court may, if it thinks it expedient so to do, call in the aid of one or more assessors specially qualified, and try and hear the cause or matter wholly or partly with their assistance.

(2) The remuneration, if any, to be paid to an assessor shall be determined by the court.

#### 62 Trial with and without jury.

(1) Subject to subsection (2), an action or an issue of fact in an action in the High Court in which a claim is made in respect of—

- (a) libel;
- (b) slander;
- (c) malicious prosecution;
- (d) false imprisonment;
- (e) .....

**F108**

shall, if any party to the action so requests, be tried with a jury.

(2) The court may, on the application of any party to an action referred to in subsection (1), order that the action or any issue of fact in the action shall be tried without a jury if it is of opinion that such trial—

- (a) will substantially involve matters of account;
- (b) will require any protracted examination of documents or accounts or any technical, scientific or local investigation which cannot conveniently be made with a jury;
- (c) will be unduly prolonged; or
- (d) is for any special reason (to be mentioned in the order) unsuitable to be tried with a jury.

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- (3) Subject to subsection (4), any other action or any issue of fact therein shall be tried without a jury.
- (4) The court may, in any action referred to in subsection (3) order that the action or any issue of fact in the action shall be tried with a jury if it is of opinion that by reason of an allegation of actual fraud or actual undue influence or for some other reason the trial may more suitably be had with a jury.
- (5) Subject to subsections (1) and (3), the High Court may in accordance with rules of court order that different questions of fact arising in any action be tried at different times or by different modes of trial.
- (6) Her Majesty may by Order in Council from time to time amend this section so as to alter the classes of action in which and the terms and conditions on which a trial shall or may be had with a jury.
- (7) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been approved by resolution of each House of Parliament.

**Textual Amendments**

**F108** S. 62(1)(e) repealed by S.I. 1987/1283, art. 2

**F109** **63** .....

**Textual Amendments**

**F109** S. 63 repealed (31.7.1996) by S.I. 1996/1141 (N.I. 6), art. 32(3), Sch. 5; S.R. 1996/267, art. 2

**64 Jury in civil actions.**

(1) The jury for the trial in the High Court of any action or any issue therein shall consist of seven persons, <sup>F110</sup> . . .

<sup>F111</sup>(2) .....

<sup>F112</sup>(3) .....

<sup>F113</sup>(4) .....

**Textual Amendments**

**F110** Words in S. 64(1) repealed (31.7.1996) by S.I. 1996/1141(N.I. 6) art. 32(3), Sch. 5; S.R. 1996/267, art. 2

**F111** S. 64(2) repealed (31.7.1996) by S.I. 1996/1141(N.I. 6) art. 32(3), Sch. 5; S.R. 1996/267, art.2

**F112** S. 64(3) repealed (31.7.1996) by S.I. 1996/1141(N.I. 6) art. 32(3), Sch. 5; S.R. 1996/267, art.2

**F113** S. 64(4) repealed (31.7.1996) by S.I. 1996/1141(N.I. 6) art. 32(3), Sch. 5; S.R. 1996/267, art. 2



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## 65 Rules of court in relation to juries in civil actions.

- (1) Subject to this Act, rules of court may be made concerning the challenging, empanelling and discharge of jurors and juries and the conditions subject to which refreshment may be supplied to them at any stage of the trial of an action or issue therein and may prescribe the number of peremptory challenges, being not less than three or more than six, to be allowed to each party in civil proceedings.

<sup>F114</sup>(2) . . . . .

### Textual Amendments

**F114** S. 65(2) repealed (31.7.1996) by S.I. 1996/1141 (N.I. 6) art. 32(3), Sch. 5: S.R. 1996/267, art. 2

### Modifications etc. (not altering text)

**C17** S. 65 extended by Banking Act 1987 (c. 22, SIF 10), s. 62(8)(c)

## 66 Certain affidavits taken abroad admissible without proof of seal etc.

A document purporting to have affixed or impressed on it or subscribed to it the seal or signature of a court, judge, notary public or person having authority to administer oaths in England and Wales, Scotland, the Republic of Ireland or any part of the Commonwealth in testimony of an affidavit being taken before it or him in such place shall be admitted in evidence without proof of the seal or signature being the seal or signature of that court, judge, notary public or person.

## 67 Subpoenas in other parts of the United Kingdom.

- (1) In connection with any cause or matter in or pending before the High Court, the Court of Appeal or any inferior court or tribunal in aid of which the High Court may act, a judge of the High Court, or (in the case of a cause or matter in or pending before the Court of Appeal) of the Court of Appeal, may, if satisfied that it is proper to compel—
- (a) the personal attendance at any proceedings of any witness not within the jurisdiction of the court; or
  - (b) the production by any such witness of any document or exhibit at any proceedings,

order that a writ of subpoena ad testificandum or writ of subpoena duces tecum shall issue in special form commanding the witness, wherever he shall be within the United Kingdom, to attend the proceedings, and the service of any such writ in any part of the United Kingdom shall be as valid and effectual to all intents and purposes as if it had been served within the jurisdiction of the court.

- (2) A writ of subpoena ad testificandum or duces tecum may be issued under this section for the purpose of enforcing any order made by the High Court requiring any person to give evidence respecting any paper or writing being or purporting to be testamentary or to lodge in the Probate and Matrimonial Office any such paper or writing which may be shown to be in his possession or under his control.
- (3) References in subsection (1) to proceedings include references to proceedings before an officer of a court or tribunal, an examiner or commissioner appointed by the court (including an examiner or commissioner appointed to take evidence outside the jurisdiction of the court) or an official or special referee or arbitrator.

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- (4) Every writ issued under this section shall have at its foot a statement to the effect that it is issued by the special order of a judge, and no such writ shall issue without such a special order.
- (5) If any person served with a writ issued under this section does not appear as required by the writ, the High Court, on proof to the satisfaction of the court of the service of the writ and of the default, may transmit a certificate of the default under the seal of the court or under the hand of a judge of the court, if the service was in Scotland to the Court of Session in Edinburgh, and if the service was in England or Wales to the High Court of Justice in London, and the court to which the certificate is so sent shall thereupon proceed against and punish the person so having made the default in like manner as if that person had neglected or refused to appear in obedience to process issued out of that court.
- (6) No court shall in any case proceed against or punish any person for having made such default as aforesaid unless it is shown to the court that a reasonable and sufficient sum of money to defray the expenses of coming and attending to give evidence and of returning from giving evidence was tendered to that person at the time when the writ was served upon him.
- (7) Nothing in this section shall alter or affect—
  - (a) the power of the High Court to issue a commission for the examination of witnesses out of the jurisdiction of the court in any case in which, notwithstanding this section, the court thinks fit to issue such a commission; or
  - (b) the admissibility of any evidence at any trial where such evidence was heretofore by law receivable on the ground of any witness being beyond the jurisdiction of the court, and the admissibility of any such evidence shall be determined as if this section and any statutory provision reproduced by this section had not passed.

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

- C18** S. 67 applied (19.6.1997) by 1997 c. 24, ss. 10(8), 22(3), 24(2), Sch. 2 para. 1(c), **Sch. 3**, para. 6  
S. 67 applied (coming into force in accordance with art. 1(3)) by 1983 c. 54, **Sch. 4** (as inserted  
(coming into force in accordance with art. 1(3)) by S.I. 2002/3135, art. 14 (with transitional provisions  
in **Sch. 2**)
- C19** S. 67 extended by Medical Act 1983 (c. 54, SIF 83:1), **Sch. 4 para. 2(2)** and by Dentists Act 1984  
(c. 24, SIF 83:1), **s. 50(2)**
- C20** S. 67 applied by Opticians Act 1989 (c. 44, SIF 83:1), **s. 21(2)**
- C21** S. 67 applied (prosp.) by Health and Social Care Act 2008 (c. 14), **ss. 106**, 170(3), 171(2)

## PART VI

### DEPARTMENTS AND OFFICERS

#### 68 Departments.

- (1) There shall be established the departments of the Supreme Court specified in the first column of Schedule 2.
- (2) The business to be assigned to each department shall—

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- (a) be prescribed by rules of court; and
  - (b) subject to any directions given by the [<sup>F115</sup>Lord Chief Justice] under subsection (4), be transacted under the supervision of the [<sup>F116</sup>officer] specified in relation to that department in the second column of Schedule 2.
- (3) The Lord Chancellor may by order made after consultation with the Lord Chief Justice establish at such place as may be specified in the order a branch office of the Probate and Matrimonial Office which—
- (a) may transact such of the business of that Office as may be so specified; and
  - (b) shall, subject to subsection (4), be under the supervision of a circuit registrar.
- [<sup>F117</sup>(4) The officer supervising a department shall discharge his functions in accordance with directions given by the [<sup>F118</sup>Lord Chief Justice].]
- (5) The Lord Chancellor may by order made after consultation with the Lord Chief Justice at any time modify Schedule 2 by—
- (a) removing any department and any entry relating thereto from that Schedule;
  - (b) adding any department and any entry relating thereto to that Schedule;
  - (c) amending the name of any department or amending any entry relating to any department in that Schedule.
- (6) An order under subsection (5) may make provision for any incidental, consequential, transitional or supplementary matters for which it appears to the Lord Chancellor to be necessary or expedient for the purpose of the order to provide, and may amend or repeal any statutory provision (including any provision of this Act) so far as may be necessary or expedient in consequence of the order.
- [<sup>F119</sup>(7) The Lord Chief Justice may nominate any of the following to exercise his functions under this section—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

- F115** Words in s. 68(2)(b) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), **Sch. 5 para. 33(2)**; S. I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)
- F116** Word in s. 68(2)(b) substituted (1.5.2004) by Courts Act 2003 (c. 39), **ss. 103(5)(a)**, 110(1); S.I. 2004/1104, **art. 3(e)**
- F117** S. 68(4) substituted (1.5.2004) by Courts Act 2003 (c. 39), **ss. 103(5)(b)**, 110(1); S.I. 2004/1104, **art. 3(e)**
- F118** Words in s. 68(4) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), **Sch. 5 para. 33(3)**; S. I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)
- F119** S. 68(7) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), **Sch. 5 para. 33(4)**; S.I. 2006/1014, **art. 2(a)**, **Sch. 1 para. 12(a)**

#### [<sup>F120</sup>68A Lord Chancellor's duty

- (1) The Lord Chancellor is under a duty to ensure that there is an efficient and effective system to support the carrying on of the business of—
- (a) the Supreme Court,
  - (b) county courts,

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(c) magistrates' courts, and

(d) coroners' courts,

and that appropriate services are provided for those courts.

(2) The Lord Chancellor must, within 18 months of the coming into force of this section, and afterwards annually, prepare and lay before both Houses of Parliament a report as to the way in which he has discharged his duty under subsection (1).]

#### Textual Amendments

**F120** S. 68A inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), **ss. 10**, 148(1); S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 6

## 69 Northern Ireland Court Service.

(1) There shall be a unified and distinct civil service of the Crown, to be called the Northern Ireland Court Service and hereafter referred to as “the Court Service”, the functions of which shall be—

(a) to facilitate the conduct of the business of the following courts, namely—

(i) the Supreme Court;

(ii) county courts;

(iii) magistrates' courts; and

(iv) coroners' courts;

(b) to give effect to judgments to which [<sup>F121</sup>the Judgment Enforcement (Northern Ireland) Order 1981] applies; and

(c) to discharge such other functions in relation to the courts mentioned in paragraph (a) or the enforcement of the judgments mentioned in paragraph (b) as are conferred on, or transferred to, it or any of its officers by or under this Act or any other statutory provision.

(2) The officers and other staff of the Court Service shall be appointed by the Lord Chancellor, with the concurrence of the Minister for the Civil Service as to numbers and terms and conditions of service, and shall discharge their functions in accordance with directions given by the Lord Chancellor.

(3) The principal civil service pension scheme within the meaning of section 2 of the <sup>M15</sup>Superannuation Act 1972 shall, with the necessary adaptations, apply to such officers and staff.

(4) The functions exercisable by the Court Service under subsection (1) shall include the functions heretofore exercisable by—

(a) the officers and other persons employed in the Supreme Court;

(b) the persons employed in the county court service by virtue of section 108 of the <sup>M16</sup>County Courts Act (Northern Ireland) 1959 or any other officer of a county court;

(c) clerks of petty sessions and persons employed in the offices of clerks of petty sessions;

(d) the Enforcement of Judgments Office; and

(e) the officers of coroners' courts,

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other than those functions which by or under this Act become the functions of statutory officers.

- (5) <sup>F122</sup> .....
- (6) The Lord Chancellor may by order make provision—
- (a) for the payment by him of compensation to or in respect of persons who suffer loss of employment or loss or diminution of emoluments (including superannuation rights) which is attributable to the provisions of this section;
  - (b) for the transfer to a statutory officer of all or any of the functions of an office abolished by subsection (5);
  - (c) for such other incidental, consequential, transitional or supplementary matters (including the amendment or repeal of any provision of this Act or of any other statutory provision) as appear to the Lord Chancellor to be necessary or proper in connection with the establishment of the Court Service.

#### Textual Amendments

**F121** Words substituted by S.I. 1981/226 (N.I. 6), **Sch. 2 para. 25**

**F122** S. 69(5) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 5 Group 11}

#### Marginal Citations

**M15** 1972 c. 11.

**M16** 1959 c. 25. (N.I.)

## 70 Appointment and qualification of statutory officers.

- (1) Appointments to the offices listed in column 1 of Schedule 3 shall be made by the Lord Chancellor after consultation with the Lord Chief Justice and with the concurrence of the Minister for the Civil Service as to numbers and terms and conditions of service and persons holding such offices are in this Act referred to as “statutory officers”.
- (2) Subject to subsection (3), a person shall not be qualified for appointment to any of the offices listed in column 1 of Schedule 3 unless <sup>F123</sup>he is—
  - (a) a barrister or solicitor <sup>F124</sup>. . . who has at least the number of years’ standing specified in relation to that office in column 3 of that Schedule; or
  - (b) the holder of any other office so listed.]
- (3) In exceptional circumstances, where it appears to the Lord Chancellor that a suitable appointment cannot be made in accordance with the provisions of subsection (2) and Schedule 3, he may, notwithstanding those provisions, after consultation with the Lord Chief Justice, appoint any barrister, solicitor or other person whom he considers to be suitable for appointment having regard to his knowledge and experience.
- (4) Without prejudice to section 68, the functions of the holder of each office listed in column 1 of Schedule 3 shall include the functions specified in relation to that office in column 4 of that Schedule (being functions heretofore exercised by the holder of the office or offices so specified) and accordingly—
  - (a) for a reference in any statutory provision relating to those functions to any office listed in column 4 of Schedule 3 or to the holder of any such office there shall be substituted a reference to the appropriate corresponding office

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- listed in column 1 of that Schedule or to the holder of that office, as the case may be; and
- (b) the offices specified in column 4 of Schedule 3 are hereby abolished.
- (5) The Lord Chancellor may by order made after consultation with the Lord Chief Justice at any time modify Schedule 3 by:—
- (a) removing any office and any entry relating thereto from that Schedule;
- (b) adding any office and any entry relating thereto to that Schedule;
- (c) amending the title of any office or amending any entry relating to any office in that Schedule.
- (6) An order under subsection (5) may make provision for any incidental, consequential, transitional or supplementary matters for which it appears to the Lord Chancellor to be necessary or expedient for the purpose of the order to provide and may amend or repeal any statutory provision (including any provision of this Act) so far as may be necessary or expedient in consequence of the order.

#### Subordinate Legislation Made

**P1** S. 70(5)(6) power exercised (03.06.1991) by [S.R. 1991/230](#)

#### Textual Amendments

**F123** Words in s. 70(2) substituted (15.10.2002) by [2002 c. 26, s. 18\(8\)](#); [S.R. 2002/319, art. 2, Sch.](#)

**F124** Words in s. 70(2)(a) repealed (1.5.2004) by [Courts Act 2003 \(c. 39\), ss. 109\(3\), 110\(1\), Sch. 10; S.I. 2004/1104, art. 3\(h\)\(i\)](#)

## 71 Tenure of office of statutory officers.

(1) <sup>F125</sup> .....

(2) <sup>F125</sup> .....

[<sup>F126</sup>(3) Subject to subsection (4) below and to subsections (4) to (6) of section 26 of the Judicial Pensions and Retirement Act 1993 (<sup>F127</sup> . . . power to authorise continuance in office beyond the age of 70, up to the age of 75), a statutory officer shall retire on the day on which he attains the age of 70 years.]

(4) <sup>F125</sup> .....

#### Textual Amendments

**F125** [S. 71\(1\)\(2\)\(4\)](#) repealed (3.4.2006) by [2002 c. 26, ss. 86, 87\(1\), Sch. 13; S.R. 2006/124, art. 2, Sch. para. 11\(f\)](#)

**F126** [S. 71\(3\)](#) substituted (31.3.1995) by [1993 c. 8, ss. 26, 31\(2\), Sch. 6, para. 18; S.I. 1995/631, art. 2](#)

**F127** Words in [s. 71\(3\)](#) repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 146, 148\(1\), Sch. 5 para. 34, Sch. 18 Pt. 3; S.I. 2006/1014, art. 2\(a\), Sch. 1 paras. 12\(a\), 30\(c\)](#)

## 72 Superannuation of statutory officers.

(1) A statutory officer shall be deemed for the purposes of section 1 of the <sup>M17</sup>Superannuation Act 1972 to be employed in the civil service of the state and, subject



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to the following provisions of this section, the principal civil service pension scheme within the meaning of section 2 of that Act shall apply to him accordingly.

- (2) In its application to a statutory officer in respect of his service as such the principal civil service pension scheme shall have effect subject to the modifications set out in Schedule 4.
- (3) Subsection (2) shall not apply to a statutory officer appointed by virtue of section 70(3) unless the Lord Chancellor, with the concurrence of the Minister for the Civil Service, so directs.
- [<sup>F128</sup>(4) This section does not apply to a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.]

**Textual Amendments**  
**F128** S. 72(4) added (31.3.1995) by 1993 c. 8, ss. 31, **Sch. 8 para.14**; S.I. 1995/631, **art. 2**

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**Modifications etc. (not altering text)**  
**C22** S. 72(2): power to amend conferred by S.I. 1986/1888 (N.I. 18), **art. 18(3)(j)**  
 S. 72(2): power to modify conferred (N.I.) (7.2.1994) by 1993 c. 49, ss. 182, 183, 184, 186(2), **Sch. 5 Pt. II para. 17(2)(3)(j)**; S.R. 1994/17, **art. 2**

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**Marginal Citations**  
**M17** 1972 c. 11.

[<sup>F129</sup>**73 Restrictions on practice.**

- (1) <sup>F130</sup> . . . A statutory officer shall not either directly or indirectly practise as a barrister or solicitor or as an agent for a solicitor.
- (2) <sup>F130</sup> . . . . .]

**Textual Amendments**  
**F129** S. 73 substituted by S.R. 1982/300, **art. 5(1)**  
**F130** S. 73(2) and word repealed (1.5.2004) by Courts Act 2003 (c. 39), ss. 103(6), 109(3), 110(1), **Sch. 10**; S.I. 2004/1104, **art. 3(e)**

**74 Deputies and temporary appointments.**

- (1) If it appears to the Lord Chancellor that it is expedient to do so in order to facilitate the disposal of business he may, after consultation with the Lord Chief Justice, appoint a suitably qualified person—
  - (a) to act as a deputy for any statutory officer, or
  - (b) to act as a temporary additional statutory officer,
 during such period or on such occasions as the Lord Chancellor, after consultation with the Lord Chief Justice, thinks fit.
- (2) A person acting in an office by virtue of an appointment under subsection (1) shall have all the powers of a person permanently appointed to that office.



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- (3) Where anything is for the time being authorised or required by this Act or any other statutory provision to be done to or by a particular statutory officer and—
  - (a) that statutory officer is not available because of absence or other reason and no person may, by virtue of subsections (1) and (2), exercise his powers; or
  - (b) his office is vacant,then it may, unless the Lord Chancellor otherwise directs, be done during such unavailability or vacancy to or by any other statutory officer.
- (4) Where for any purpose it is necessary for a judge of the High Court or the Court of Appeal to sit outside Belfast, he may, with the approval of the Lord Chief Justice, appoint a judge's registrar.
- (5) The Lord Chancellor may pay to any person appointed under this section such remuneration and allowances as he may, with the consent of the Minister for the Civil Service, determine.

### [<sup>F131</sup>75 Official Solicitor.

- [<sup>F132</sup>(1) The Lord Chancellor, after consultation with the Lord Chief Justice, may appoint as Official Solicitor to the Supreme Court a person who is—
  - (a) a solicitor of the Supreme Court of at least 7 years' standing, or
  - (b) a member of the Bar of Northern Ireland of at least 7 years' standing.]
  - (2) The Official Solicitor shall have such powers and perform such duties as may be prescribed and as may be conferred or imposed on him—
    - (a) by or under this or any other Act; or
    - (b) by or in accordance with any direction given by the [<sup>F133</sup>Lord Chief Justice].
  - [ The Lord Chief Justice may nominate any of the following to exercise his functions  
<sup>F134</sup>(2A) under subsection (2)(b)—
    - (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
    - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]
    - (3) <sup>F135</sup>.....
    - (4) The court may, in accordance with rules of court, order the costs of the Official Solicitor in respect of any business done by him to be paid out of any fund the subject of the proceedings or by any party to the proceedings and such costs shall be ascertained on taxation or measured.
    - (5) Where any powers or duties have been or are hereafter conferred on the Official Solicitor then, unless and until the court or a judge otherwise directs in any particular case, those powers may be exercised and those duties shall be performed by the holder of the office for the time being, and no further order or appointment shall be necessary by reason only that the person on whom the powers and duties were conferred or imposed has died or ceased to hold office.]
    - [<sup>F136</sup>(6) The Official Solicitor shall hold and vacate office in accordance with the terms of his appointment (which may include provision about retirement, dismissal or resignation).
    - (7) The Lord Chancellor may pay to the Official Solicitor such remuneration and allowances as the Lord Chancellor may determine with the consent of the Treasury.

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- (8) Service as the Official Solicitor is employment in the civil service of the State for the purposes of section 1 of the Superannuation Act 1972 (Principal Civil Service Pension Scheme).
- (9) While the office of Official Solicitor is vacant or the Official Solicitor is unable or unwilling to act, the Lord Chancellor may, after consultation with the Lord Chief Justice, appoint a person as temporary Official Solicitor; and the temporary Official Solicitor—
- (a) may be appointed only if qualified for appointment as Official Solicitor,
  - (b) shall have all the powers and duties of the Official Solicitor, and
  - (c) may be paid remuneration and allowances by the Lord Chancellor with the consent of the Treasury.]

#### Textual Amendments

**F131** S. 75 substituted by S.R. 1982/300, **art. 4**

**F132** S. 75(1) substituted (1.5.2004) by Courts Act 2003 (c. 39), **ss. 103(3)**, 110(1); S.I. 2004/1104, **art. 3(e)**

**F133** Words in s. 75(2)(b) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), **ss. 15(2)**, 148(1), **Sch. 5 para. 35(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)

**F134** S. 75(2A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), **ss. 15(2)**, 148(1), **Sch. 5 para. 35(3)**; S. I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)

**F135** S. 75(3) repealed (1.10.2003) by 2002 c. 26, **ss. 86**, 87(1), **Sch. 13**; S.R. 2003/416, **art. 2(2)**

**F136** S. 75(6)-(9) inserted (1.5.2004) by Courts Act 2003 (c. 39), **ss. 103(4)**, 110(1); S.I. 2004/1104, **art. 3(e)**

## 76 Property held by officers.

Any property whatsoever held in his official capacity by any of the following, that is to say—

- (a) a statutory officer;
- (b) the Accountant General of the Supreme Court;
- (c) [<sup>F137</sup>the Official Solicitor;]
- (d) any member of the Northern Ireland Court Service;
- (e) any person appointed by the High Court to hold the property for the purposes of or in connection with any proceedings,

shall, on his dying, becoming bankrupt, ceasing to hold office or ceasing to act for the purposes of or in connection with any such proceedings, vest in the person appointed to succeed him without any conveyance, assignment or transfer.

#### Textual Amendments

**F137** S. 76(c) revived (1.5.2004) by Courts Act 2003 (c. 39), **ss. 103(7)**, 110(1) (with s. 103(8)); S.I. 2004/1104, **art. 3(e)**

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## PART VII

### FUNDS IN COURT

#### 77 Accountant General.

- (1) Such person as the Lord Chancellor may designate shall be the Accountant General of the Supreme Court.
- (2) There shall be maintained in or near the Royal Courts of Justice an office for the business of the Accountant General under this Part.

#### 78 Accounts of funds in court.

- (1) The Accountant General shall—
  - (a) keep proper accounts (including such accounts as may be necessary for carrying into effect orders of the High Court and the county court and for the purposes of this Part and <sup>F138</sup>Part VI of the <sup>M18</sup>Administration of Justice Act 1982) and proper records in relation to the accounts;
  - (b) prepare in respect of each accounting period a statement of accounts in such form as the Treasury may direct.
- (2) The Accountant General shall, on or before 30th November in any year, send to the Comptroller and Auditor General the statement of accounts prepared by him under subsection (1) for the accounting period last ended.
- (3) The Comptroller and Auditor General shall examine, certify and report on the statement of accounts sent to him under subsection (2) and shall lay copies of the statement of accounts and of his report thereon before each House of Parliament.
- (4) In this section “accounting period” means the period of 12 months ending on 31st March in any year except that the first accounting period shall, if the Treasury so directs, be such period shorter or longer than 12 months (but not longer than two years) as is specified in the direction.

#### Textual Amendments

**F138** Words in s. 78(1)(a) substituted (13.6.1991) by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, [Sch. 8 para 6](#); [S.I. 1991/1245](#), [art.2](#)

#### Marginal Citations

**M18** [1982 c. 53](#).

#### 79 Accountant General to keep bank account.

- (1) The Accountant General shall maintain an account at the Bank of Ireland or at such other bank or banks as the Lord Chancellor may, with the concurrence of the Treasury, designate and shall pay all sums received by him into that account and all sums payable by him out of it.
- (2) References to the Bank of Ireland in any statutory provision relating to sums in the Supreme Court or the county court shall, when a designation is made under

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subsection (1), be construed, in connection with the sums to which that provision relates, as references to a bank so designated.

## 80 Payments and transfers.

- (1) The payment of money into the Supreme Court or the county court shall be effected by paying into an Accountant General's account maintained under section 79.
- (2) The transfer into the Supreme Court or the county court of securities (other than such as are transferable by delivery) shall be effected by transferring them to the Accountant General.
- (3) The deposit in the Supreme Court or the county court of effects and the transfer into court of securities transferable by delivery shall be effected by delivering them to the Accountant General.

## 81 Investment of funds in court.

Save in a case in which it is provided by an order of the court that it shall not be placed or invested as mentioned in the following provisions of this section, and subject to any provision to the contrary made by rules made under the next following section, a sum of money in the Supreme Court or in the county court—

- (a) may, if the High Court or the county court (as the case may be) so orders, be dealt with in such of the following ways as may be specified in the order, namely:—
  - (i) it may be placed, in accordance with rules so made, to a deposit account or a short-term investment account (that is to say, to an account of one or other of two kinds such that, in the case of an account of either kind, there will, under rules so made, but subject to any exceptions thereby prescribed, fall to accrue on moneys placed thereto interest derived from the transfer to, and investment by, the National Debt Commissioners of the moneys placed to all the accounts of those kinds);
  - (ii) it may be placed to a long-term investment account for transfer, under rules so made, to such one of the funds established by schemes made under [F139] section 42 of the M19 Administration of Justice Act 1982] as may be so specified;
  - (iii) it may be invested by the Accountant General in such of the securities designated for the purposes of this paragraph by rules made under section 55 of this Act or [F140] Article 47 of the County Courts (Northern Ireland) Order 1980] as may be so specified;
  - (iv) it may be invested by the Accountant General in accordance with directions given by an advisory committee appointed by the Lord Chancellor in accordance with rules made under the next following section;
- (b) shall, if no order is made with respect to it under the foregoing paragraph, be dealt with as follows—
  - (i) except in a case in which it was paid in under section 63 of the M20 Trustee Act (Northern Ireland) 1958, it shall be placed, in accordance with rules made under the next following section, to a deposit account;

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- (ii) in the said excepted case, it shall be invested by the Accountant General in such manner as may be prescribed by rules so made.

#### Textual Amendments

**F139** Words in s. 81(a)(ii) substituted (13.6.1991) by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, [Sch. 8 para. 7](#); [S.I. 1991/1245](#), [art.2](#)

**F140** Words substituted by [S.I. 1980/397 \(N.I. 3\)](#), art. 68(2), [Sch. 1 Pt. II](#)

#### Marginal Citations

**M19** 1982 c. 53.

**M20** 1958 c. 23 (N.I.)

## 82 Rules as to funds in court.

- (1) The Lord Chancellor, with the concurrence of the Treasury, may make rules regulating, subject to the provisions of section 80, the deposit, payment, delivery and transfer in, into and out of the Supreme Court and the county court of money, securities and effects which belong to suitors or are otherwise capable of being deposited in, or paid or transferred into, the Supreme Court or the county court or are under the custody of the Supreme Court or the county court, and regulating the evidence of such deposit, payment, delivery or transfer and, subject to the provisions of section 81, the manner in which money, securities and effects in court are to be dealt with, and in particular—
- (a) providing (subject to any exceptions prescribed by the rules) for the accruer of interest on moneys placed to deposit accounts and short-term investment accounts and prescribing the rate at which interest on moneys placed to deposit accounts and the rate at which interest on moneys placed to short-term investment accounts is to accrue;
  - (b) requiring the Accountant General—
    - (i) to transfer to the National Debt Commissioners all money paid into the Supreme Court or the county court which is not required by him for meeting current demands, except money placed to a long-term investment account or ordered to be invested in securities;
    - (ii) to transfer money placed to a long-term investment account to that one of the funds established by schemes made under [<sup>F141</sup>section 42 of the <sup>M21</sup>Administration of Justice Act 1982] specified in the order pursuant to which it was so placed;
  - (c) prescribing for the purposes of section 81(b)(ii) the manner of investment of money by the Accountant General and regulating the investment, pursuant to an order under that section, of money in securities;
  - (d) regulating the crediting of interest accruing on moneys placed to deposit accounts and on moneys placed to short-term investment accounts and the crediting of dividends accruing on shares in funds established by schemes made under [<sup>F142</sup>section 42 of the <sup>M22</sup>Administration of Justice Act 1982] which have been allotted in consideration of the transfer of money in compliance with such provision of the rules as has effect by virtue of paragraph (b)(ii) and of interest or dividends accruing on securities in which money has been invested by the Accountant General pursuant to an order of the High Court or county court or to section 81(b)(ii) and on other securities in court;

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- (e) providing—
  - (i) that, in such cases as may be prescribed by the rules, no sum of money (whatever its amount) shall be placed to a deposit account or a short-or long-term investment account or be invested in securities;
  - (ii) that, in no case, shall a sum of money of an amount less than such as may be so prescribed be placed to, or remain in, a deposit account, be placed to a short-or long-term investment account or be invested in securities;
- (f) prescribing the time at which money which falls to be placed to a deposit account or short-term investment account is to be so placed and the times at which interest on money so placed is to begin and cease to accrue and the mode of computing any such interest;
- (g) providing that, in such circumstances as may be prescribed by the rules, interest and dividends such as are mentioned in paragraph (d) shall be placed to deposit accounts or short-or long-term investment accounts;
- (h) providing for dealing with accounts or effects which, subject to such, if any, exceptions as may be prescribed by the rules, have not been dealt with for such period (not being less than fifteen years) as may be so prescribed;
- (i) prescribing the manner in which money is to be furnished to the Accountant General by the National Debt Commissioners and [<sup>F143</sup>the investment manager of a common investment scheme made under section 42 of the <sup>M23</sup>Administration of Justice Act 1982] respectively for the purpose of enabling him to comply with orders of the High Court and county court as to the payment of money out of court;
- (j) providing for the discharge of the functions of the Accountant General under the rules by deputy;
- (k) providing for the constitution and procedure of the advisory committee referred to in section 81(a)(iv) and for the remuneration of its members;
- (l) providing for such matters as are incidental to, or consequential on, the foregoing provisions of this subsection or are necessary for giving effect to those provisions.

(2) Rules under subsection (1) may make different provision in relation to the Supreme Court and the county court.

#### Textual Amendments

**F141** Words in s. 82(1)(b)(ii) substituted (13.6.1991) by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, [Sch. 8 para. 8](#); [S.I. 1991/1245](#), [art.2](#)

**F142** Words in s. 82(1)(d) substituted (13.6.1991) by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, [Sch. 8 para. 8](#); [S.I. 1991/1245](#), [art.2](#)

**F143** Words in s. 82(1)(i) substituted (13.6.1991) by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, [Sch. 8 para. 8](#); [S.I. 1991/1245](#), [art.2](#)

#### Marginal Citations

**M21** 1982 c. 53.

**M22** 1982 c. 53.

**M23** 1982 c. 53.

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F144 **83** .....

**Textual Amendments**

**F144** S. 83 repealed (13.6.1991) by Administration of Justice Act 1982 (c. 53, SIF 38), s. 70, Sch. 9 Pt. I; S.I. 1991/1245, art.2

**84 Statutory deposits.**

- (1) Section 80(1) shall apply to a statutory deposit as it applies to the payment of money into the Supreme Court; and section 80(2) and (3) shall apply to the deposit with the Accountant General of securities in lieu of money in exercise of a right to make such a deposit conferred by section 29 of the <sup>M24</sup>Tramways (Ireland) Act 1860 or by rules made by virtue of subsection (2).
- (2) Sections 81 and 82 shall apply to a statutory deposit and to securities which are in the hands of the Accountant General in consequence of a person’s having availed himself of such a right as is mentioned in subsection (1) and rules made under section 82 may include separate provisions with respect to such deposits and securities and, in particular, may authorise the deposit, under the statutory provisions mentioned in subsection (3), of securities in lieu of money.
- (3) In this section and sections 83 and 85 “statutory deposit” means money deposited with the Accountant General under or by virtue of—
  - (a) section 29 of the <sup>M25</sup>Tramways (Ireland) Act 1860;
  - [<sup>F145</sup>(b) Article 7 of the Industrial Assurance (Northern Ireland) Order 1979;]
  - (c) ..... <sup>F146</sup>
  - [<sup>F147</sup>(d) Article 90(2)(b) or 93(1)(a) of the Road Traffic (Northern Ireland) Order 1981,]or any statutory provision which was re-enacted by any of those provisions.

**Textual Amendments**

**F145** S. 84(3)(b) substituted by S.I. 1979/1576, art. 5

**F146** S. 84(3)(c) repealed by Financial Services Act 1986 (c. 60, SIF 69), s. 212(3), Sch. 17 Pt. I

**F147** S. 84(3)(d) substituted by S.I. 1981/160, art. 7

**Marginal Citations**

**M24** 1860 c. 152.

**M25** 1860 c. 152.

**85 Provision for default to be made good.**

Where any member of the Northern Ireland Court Service has been guilty of any default with respect to any money, securities or effects in the Supreme Court or the county court or any statutory deposit or with respect to any such securities as are mentioned in section 84(2), such sum as is necessary for making good the default shall be paid by the Lord Chancellor [<sup>F148</sup>or, if and so far as it is not so paid, shall be charged on and issued out of the Consolidated Fund].



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### Textual Amendments

**F148** Words added by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 9**

## PART VIII

### RULES OF LAW IN JUDICIAL MATTERS GENERALLY

#### **86 Concurrent administration of law and equity to continue.**

- (1) Every court exercising jurisdiction in Northern Ireland in a civil cause or matter shall continue to administer law and equity upon the basis that, wherever there is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail.
- (2) Every such court shall give the same effect as heretofore:—
  - (a) to all equitable estates, titles, rights, remedies, reliefs, counterclaims and defences and to all equitable duties and liabilities; and
  - (b) subject thereto, to all legal claims and demands and all estates, titles, rights, duties, obligations and liabilities existing by common law or by any custom or created by any statute,
 and shall ensure that, as far as possible and subject to any statutory provision (including subsection (3)) to the contrary, all matters in dispute in a cause or matter before it may be completely and finally determined without further proceedings in respect thereof.
- (3) Without prejudice to any other powers exercisable by it, a court, acting on equitable grounds, may stay any proceedings or the execution of any of its process subject to such conditions as it thinks fit.
- (4) Nothing in this Act shall authorise a cause or proceeding pending in the High Court or the Court of Appeal to be stayed by prohibition or injunction.

#### **87 Assignment of debts and choses in action.**

- (1) Subject to subsections (2) and (3), any absolute assignment by writing under the hand of the assignor, not purporting to be by way of charge only, of any debt or other legal chose in action, of which express notice in writing is given to the debtor, trustee or other person from whom the assignor would have been entitled to receive or claim the debt or chose in action, shall be effectual in law (subject to equities having priority over the right of the assignee) to pass and transfer, as from the date of the notice,—
  - (a) the legal right to, and all legal and other remedies respecting, the debt or chose in action together with,
  - (b) the power to give, without the concurrence of the assignor, a good discharge for the debt or chose in action.
- (2) If the debtor, trustee or other person liable in respect of the debt or chose in action has had notice that the assignment is disputed by the assignor or anyone claiming under him, or of any other opposing or conflicting claims to the debt or chose in action, he shall be entitled, if he thinks fit, to call upon the several persons concerned to pursue their claims by interpleading, or he may, if he thinks fit, make an appropriate payment

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into court under the relevant provisions of the <sup>M26</sup>Trustee Acts (Northern Ireland) 1958<sup>M27</sup> and 1962.

(3) This section does not affect the provisions of the <sup>M28</sup>Policies of Assurance Act 1867.

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

**C23** S. 87 excluded (12.2.1992) by S.I. 1992/225, arts. 1, 18(2)(c), 123(b)(ii) (with regs. 52(2), 54(1), 58, 59, 90).

S. 87 excluded (N.I.) (26.11.2001) by S.I. 2001/3755, regs. 38(5), 49(1)(2)

**Marginal Citations**

**M26** 1958 c. 23 (N.I.)

**M27** 1962 c. 10 (N.I.)

**M28** 1867 c. 144.

**88 Certain stipulations not to be of the essence of contracts.**

Stipulations in a contract as to time or otherwise which according to rules of equity are not to be deemed to be or to have become of the essence of the contract are also construed and have effect at law in accordance with the same rules.

**89 Merger.**

There is no merger by operation of law only of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity.

**90 Equitable waste.**

An estate for life without impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any right to commit waste of the description known as equitable waste, unless an intention to confer that right expressly appears by the instrument creating the estate.

**91 Orders for sale, mandatory or other injunctions and receivers.**

(1) The High Court and, in matters within its jurisdiction, the county court may at any stage of any proceedings—

- (a) order a sale of any property;
- (b) grant a mandatory or other injunction; or
- (c) appoint a receiver,

in any case where it appears to the court to be just [<sup>F149</sup>and] convenient to do so for the purposes of any proceedings before it and, if the case is one of urgency, the court may grant such an injunction before the commencement of the proceedings.

(2) Any order, injunction or appointment under subsection (1) may be made either unconditionally or on such terms and conditions as the court thinks just (including, where an injunction is granted before the commencement of the proceedings, a condition requiring proceedings to be commenced).

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- (3) If, whether before or at or after the hearing of any cause or matter, an application is made for an injunction to prevent any threatened or apprehended waste or trespass, the injunction may be granted, if the court thinks fit, whether the person against whom the injunction is sought is or is not in possession under any claim or title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under colour of any title, and whether the estates claimed by both or by either of the parties are legal or equitable.
- [<sup>F150</sup>(4) The power of the High Court and, in matters within its jurisdiction, the county court, to grant an interlocutory injunction restraining a party to any proceedings from removing from the jurisdiction, or otherwise dealing with, assets located within the jurisdiction shall be exercisable in cases where that party is, as well as in cases where he is not, domiciled, resident or present within the jurisdiction.]

#### Textual Amendments

**F149** Word substituted by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 10(a)**

**F150** [S. 91\(4\)](#) added by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), s. 70, **Sch. 8 para. 10(b)**

## 92 Damages in lieu of or in addition to injunction or specific performance.

Where a court has jurisdiction to entertain an application for an injunction or specific performance it may award damages in addition to or in substitution for such injunction or specific performance.

## 93 Suits for possession of land by mortgagors.

- (1) Unless an express declaration contained in the mortgage provides otherwise a mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land as to which no notice of intention to take possession or to enter into the receipt of such rents and profits has been given by the mortgagee may—
- (a) sign and cause to be served notices to quit;
  - (b) determine tenancies or accept surrenders thereof;
  - (c) sue for such possession or for the recovery of such rents or profits or to prevent or recover damages in respect of any trespass or other wrong relative thereto in his own name, only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person.
- (2) An action, suit or proceeding brought by virtue of subsection (1) shall not be defeated by proof that the legal estate in the land the possession of which is sought to be recovered, or in respect of which the rents or profits are sought to be recovered, or in respect of which the trespass or other wrong has been committed, is vested in a mortgagee.

## 94 Relief from ejectment.

- (1) Where the defendant, or any other person having a specific interest in the lease or tenancy agreement, after a judgment or decree of any court for possession in favour of the landlord in any action of ejectment for non-payment of rent (including an action for forfeiture for non-payment of rent)—

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- (a) pays the rent and arrears thereof, with full costs, or lodges the same in court; and
- (b) makes an application at the earliest opportunity at which he can reasonably do so after the enforcement of the order for delivery of possession of land (of which application the landlord shall receive due notice) to be restored to possession;

the court may on such application award or refuse an order for restoration of possession of the land and give such equitable relief as it thinks fit.

- (2) Unless and until application is made under subsection (1) the landlord shall hold the demised premises freed and discharged from the lease or tenancy agreement, subject, however, to any appeal from the original decree or judgment for possession in his favour.
- (3) This section applies to a grant at a fee farm rent or securing a rent by condition and, for the purposes of such application, references to the lease, to the landlord and to the demised premises shall be construed, respectively, as references to the grant, to the grantor and to the premises granted.
- (4) For the purposes of this section—
  - (a) references to a lease or grant include references to a sub-lease or sub-grant respectively, and
  - (b) references to the landlord or grantor include references to any person to whom the estate or interest of the landlord or grantor has passed.
- (5) This section shall not operate to restrict any other power of the court to grant equitable relief.

#### **[<sup>F151</sup>94A] Withdrawal of privilege against incrimination of self or spouse in certain proceedings.**

- (1) In any proceedings to which this subsection applies a person shall not be excused, by reason that to do so would tend to expose that person, or his or her spouse [<sup>F152</sup>or civil partner], to proceedings for a related offence or for the recovery of a related penalty—
  - (a) from answering any question put to that person in the first-mentioned proceedings; or
  - (b) from complying with an order made in those proceedings.
- (2) Subsection (1) applies to the following civil proceedings in the High Court, namely—
  - (a) proceedings for infringement of rights pertaining to any intellectual property or for passing off;
  - (b) proceedings brought to obtain disclosure of information relating to any infringement of such rights or to any passing off; and
  - (c) proceedings brought to prevent any apprehended infringement of such rights or any apprehended passing off.
- (3) Subject to subsection (4), no statement or admission made by a person—
  - (a) in answering a question put to him in any proceedings to which subsection (1) applies; or
  - (b) in complying with any order made in any such proceedings,shall, in proceedings for any related offence or for the recovery of any related penalty, be admissible in evidence against that person or (unless they [<sup>F153</sup>married or became

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civil partners after the making of the statement or admission) against the spouse or civil partner] of that person.

(4) Nothing in subsection (3) shall render any statement or admission made by a person as there mentioned inadmissible in evidence against that person in proceedings for perjury or contempt of court.

(5) In this section—

“intellectual property” means any patent, trade mark, copyright [<sup>F154</sup>or design right], registered design, technical or commercial information or other intellectual property;

“related offence”, in relation to any proceedings to which subsection (1) applies, means—

(a) in the case of proceedings within subsection (2)(a) or (b)—

(i) any offence committed by or in the course of the infringement or passing off to which those proceedings relate; or

(ii) any offence not within sub-paragraph (i) committed in connection with that infringement or passing off, being an offence involving fraud or dishonesty;

(b) in the case of proceedings within subsection (2)(c), any offence revealed by the facts on which the plaintiff relies in those proceedings;

“related penalty”, in relation to any proceedings to which subsection (1) applies, means—

(a) in the case of proceedings within sub-section (2)(a) or (b), any penalty incurred in respect of anything done or omitted in connection with the infringement or passing off to which those proceedings relate;

(b) in the case of proceedings within sub-section (2)(c) any penalty incurred in respect of any act or omission revealed by the facts on which the plaintiff relies in those proceedings.

(6) Any reference in this section to civil proceedings in the High Court of any description includes a reference to proceedings on appeal arising out of civil proceedings in the High Court of that description.]

#### Textual Amendments

**F151** S. 94A inserted by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), **Sch. 8 para. 11**

**F152** Words in s. 94A(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(3), 263(10)(d), **Sch. 29 para. 26(2)**; S.I. 2005/3255, **art. 2(2)**

**F153** Words in s. 94A(3) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 261(3), 263(10)(d), **Sch. 29 para. 26(3)**; S.I. 2005/3255, **art. 2(2)**

**F154** Words inserted by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), s. 303(1), **Sch. 7 para. 25**

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

**C24** S. 94A extended by [Copyright, Designs and Patents Act 1988 \(c. 48, SIF 67A\)](#), **ss. 296(6)(b)**, 298(4)

**C25** S. 94A applied (28.5.2000) by [1988 c. 48, s. 298\(4\)](#) (as substituted (28.5.2000) by S.I. 2000/1175, **reg. 2(3)**)

**C26** S. 94A applied (31.10.2003) by [Copyright, Designs and Patents Act 1988 \(c. 48\)](#), ss. 296(7), 296ZA(5), 296ZD(6) (as inserted by [The Copyright and Related Rights Regulations 2003 \(S.I. 2003/2498\)](#), **reg. 24(1)** (with regs. 31-40))

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- C27** S. 94A applied (31.10.2003) by Copyright, Designs and Patents Act 1988 (c. 48), s. **296ZG(6)** (as inserted by The Copyright and Related Rights Regulations 2003 (S.I. 2003/2498), reg. **25** (with regs. 31-40))
- C28** S. 94A(5) amended (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 1(2)**; S.I. 1994/2550, art. **2**
- C29** S. 94A(5) extended by Patents, Designs and Marks Act 1986 (c. 39, SIF 67A), s. 2, **Sch. 2 para. 1(2)(h)**

## PART IX

### INFERIOR COURTS

#### *County courts*

**95, 96.** ..... <sup>F155</sup>

#### **Textual Amendments**

**F155** Ss. 95, 96, 97(1) repealed by S.I. 1980/397 (N.I. 3), art. 69(2), **Sch. 3**

#### **97 Civil jurisdiction exercisable by circuit registrars.**

(1) ..... <sup>F156</sup>

(2) Her Majesty may by Order in Council—

- (a) direct that [<sup>F157</sup>Articles 62(1), (2) and (3), 67(1)(a) and 72(3) of the Magistrates’ Courts (Northern Ireland) Order 1981] (which impose financial limits on the jurisdiction of courts of summary jurisdiction in debt and ejection proceedings) shall have effect with the substitution for the sums for the time being specified in those provisions of such higher sums as may be specified in the Order;
- (b) abolish any civil jurisdiction exercisable by courts of summary jurisdiction;
- (c) confer on circuit registrars any civil jurisdiction additional to that for the time being exercisable by them under or by virtue of any statutory provision.

(3) An Order in Council under subsection (2) may make such incidental, consequential, transitional or supplementary provisions (including the amendment or repeal of any statutory provision) as appear to Her Majesty to be necessary or proper for giving full effect to the provisions of the Order.

(4) No recommendation shall be made to Her Majesty in Council to make an Order under subsection (2) unless a draft of the Order has been approved by resolution of each House of Parliament.

#### **Textual Amendments**

**F156** Ss. 95, 96, 97(1) repealed by S.I. 1980/397 (N.I. 3), art. 69(2), **Sch. 3**

**F157** Words substituted by S.I. 1981/1675 (N.I. 26), **Sch. 6 para. 52**

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## 98 Appointment and assignment of county court judges.

For section 102 of the County Courts Act (Northern Ireland) 1959 <sup>M29</sup> there shall be substituted the following section—

### “102 Appointment and assignment of judges.

- (1) Her Majesty may appoint as judges such qualified persons as may be recommended to Her by the Lord Chancellor.
- (2) A judge shall sit in the county court in accordance with directions given by the Lord Chancellor.
- (3) A judge may, in accordance with such directions, sit as a judge for any division.
- (4) Subject to subsections (2) and (3), the Lord Chancellor shall assign one judge to each division and may from time to time vary any such assignment.
- (5) The judge assigned to the division which is or includes—
  - (a) the area of the city of Belfast shall be styled the Recorder of Belfast;
  - (b) the area of the city of Londonderry shall be styled the Recorder of Londonderry.”

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

**C30** The text of ss. 98, 99, 100, Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

#### Marginal Citations

**M29** 1959 c. 25 (N.I.)

## 99 Qualifications of county court judges and deputy judges.

<sup>F158</sup>(1) .....

(2) For section 107 of the County Courts Act (Northern Ireland) 1959 there shall be substituted the following section—

### “107 Deputy judges.

- (1) The Lord Chancellor may appoint as deputy judge—
  - (a) a person who has previously held the office as judge;
  - (b) a person who has practised for not less than ten years at the Bar of Northern Ireland;
  - (c) a resident magistrate;
  - (d) a solicitor who has practised for not less than ten years as a solicitor in Northern Ireland.
- (2) The appointment of a person as a deputy judge shall specify the term for which he is appointed.



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- (3) Subject to subsection (4), the Lord Chancellor may, with the agreement of the deputy judge, from time to time extend, for such period as he thinks appropriate, the term for which the deputy judge is appointed.
- (4) Except where an appointment is made under subsection (1)(a), neither the initial term for which a deputy judge is appointed nor any extension of that term under subsection (3) shall be such as to continue his appointment as a deputy judge after the end of the completed year of service in which he attains the age of seventy-two years.
- (5) A deputy judge shall, while he is so acting, have the like authority, jurisdiction, powers and privileges as a judge in all respects.
- (6) Where the hearing of any proceedings duly commenced before any deputy judge is adjourned or judgement is reserved therein, that deputy judge shall, notwithstanding anything in subsection (2) or (4), have power to resume the hearing and determine the proceedings or, as the case may be, to deliver the judgement so reserved.
- (7) There shall be paid to every deputy judge, except a resident magistrate, such remuneration and allowances as the Lord Chancellor may, with the concurrence of the Minister for the Civil Service, determine.”

#### Textual Amendments

**F158** S. 99(1) repealed (15.10.2002) by 2002 c. 26, s. 86, **Sch. 13**; S.R. 2002/319, art. 2, **Sch.**

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

**C31** The text of ss. 98, 99, 100, Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

### *Magistrates' courts*

#### **100 Appointment and assignment of resident magistrates.**

For section 9 of the Magistrates' Courts Act (Northern Ireland) 1964 <sup>M30</sup> there shall be substituted the following section—

##### **“9 Appointment and assignment of resident magistrates.**

- (1) Her Majesty may, on the recommendation of the Lord Chancellor, appoint fit and proper persons to be resident magistrates, being persons who at the dates of their appointments have practised for not less than seven years either as a member of the Bar of Northern Ireland or as a solicitor of the Supreme Court.
- (2) Without prejudice to section 7, a resident magistrate on his appointment shall forthwith take the oath of allegiance and the judicial oath as required by the Promissory Oaths Act 1868.
- (3) A resident magistrate shall sit in accordance with directions given by the Lord Chancellor.

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- (4) A resident magistrate may, in accordance with such directions, sit in any petty sessions district.
- (5) Subject to subsections (3) and (4), the Lord Chancellor may assign a resident magistrate to one or more petty sessions districts and may from time to time vary any such assignment.”

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

**C32** The text of ss. 98, 99, 100, Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

#### Marginal Citations

**M30** 1964 c.21 (N.I.)

**101** ..... **F159**

#### Textual Amendments

**F159** S. 101 repealed by S.I. 1981/1675 (N.I. 26), art 170(3), **Sch. 7**

### Supplementary

#### 102 Supplementary.

- (1) In this Part—
- (a) ..... **F160**
- (b) [<sup>F161</sup>section 100] shall be construed as one with the <sup>M31</sup>Magistrates’ Courts Act (Northern Ireland) 1964.
- (2) Where the Lord Chancellor at any time directs that any of the Acts listed in subsection (3) is to be reprinted, section 30 of the <sup>M32</sup>Interpretation Act (Northern Ireland) 1954 shall apply as if—
- (a) that direction were contained in an enactment; and
- (b) in subsection (2) of that section for the words “the Clerk of the Parliaments” there were substituted the words “the Clerk to the Assembly”.
- (3) The Acts referred to in subsection (2) are—
- (a) ..... **F162**
- (b) ..... **F163**
- (c) the <sup>M33</sup>Judgments (Enforcement) Act (Northern Ireland) 1969.

#### Textual Amendments

**F160** S. 102(1)(a) repealed by S.I. 1980/397 art. 68(2), (N.I. 3), Sch. 3

**F161** Words substituted by S.I. 1981/1675 (N.I. 26), **Sch. 6 para. 53**

**F162** S. 102(3)(a) repealed by S.I. 1980/397 (N.I. 3), art. 68(2), **Sch. 3**

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**F163** S. 102(3)(b) repealed by S.I. 1981/1675 (N.I. 26), art. 170(3), **Sch. 7**

#### Marginal Citations

**M31** 1964 c. 21 (N.I.)

**M32** 1954 c. 33 (N.I.)

**M33** 1969 c. 30 (N.I.)

## PART X

### MISCELLANEOUS MATTERS

#### 103 Appointment of justices of the peace.

- (1) Subject to the following provisions of this section there shall in Northern Ireland be a commission of the peace for each county court division and not, as heretofore, for each county and county borough.
  - (2) The commission of the peace for a county court division shall be a commission under the Great Seal of Northern Ireland addressed generally, and not by name, to all such persons as may from time to time hold office as justices of the peace for the county court division.
  - (3) Justices of the peace for a county court division shall be appointed [<sup>F164</sup>by the Lord Chancellor by instrument on behalf and in the name of Her Majesty], and a justice so appointed may be removed from office in like manner.
  - (4) [<sup>F165</sup>Subject to the Justice (Northern Ireland) Act 2002,] a justice of the peace shall, within the county court division for which he is appointed, have all the jurisdiction and duties which were heretofore vested in or imposed on a justice of the peace acting for any area which included any part of that county court division.
  - (5) [<sup>F165</sup> Subject to the Justice (Northern Ireland) Act 2002,] any act, matter or thing which by any statutory provision was heretofore required or authorised to be done before, or in the presence of, or to be served on, a justice of the peace acting for a county or county borough shall be required or authorised (as the case may be) to be done before, or in the presence of, or to be served on, a justice of the peace acting for any county court division in which that county or county borough or any part thereof is included.
- [<sup>F166</sup>(5A) A justice of the peace for a county court division may act as such in relation to all matters arising within that division and may so act even if at the time of acting he is in some other area of Northern Ireland.]
- (6) In each county court division such one of the justices of the peace as may be designated by the Lord Chancellor [<sup>F167</sup>, after consultation with the Lord Chief Justice,] shall be keeper of the rolls and shall exercise in relation to that county court division the functions heretofore exercised in relation to a county by the keeper of the rolls for that county.
  - (7) There shall be transmitted to the keeper of the rolls for each county court division, and be enrolled in the records of the justices for that division, a copy of any instrument appointing or removing a justice of the peace in that division in accordance with this section; and the keeper of the rolls shall be notified in such manner as the Lord Chancellor may direct [<sup>F168</sup>, after consultation with the Lord Chief Justice,] of any

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resignation or death of a justice so appointed, and shall cause to be kept and from time to time rectified a record of those for the time being holding office by virtue of any such appointment.

- (8) A record of all persons for the time being holding office as justice of the peace by virtue of appointments made in accordance with this section, together with the instruments of appointment or removal shall be kept in the office of the Clerk of the Crown for Northern Ireland.
- (9) The Lord Chancellor may by order make such incidental, consequential, transitional or supplementary provisions (including the amendment or repeal of any statutory provision) as appear to the Lord Chancellor to be necessary or proper for giving full effect to the provisions of this section.
- (10) In this and the next following section “county court division” means a division specified under <sup>F169</sup>Article 3(1) of the County Courts (Northern Ireland) Order 1980].

#### Textual Amendments

- F164** Words substituted by [Administration of Justice Act 1985 \(c. 61, SIF 34\)](#), [s. 62\(2\)](#)
- F165** Words in s. 103(4)(5) inserted (1.4.2005) by [2002 c. 26, ss. 10, 87\(1\)](#), [Sch. 4 para. 17\(3\)](#); S.R. [2005/109, art. 2, Sch.](#)
- F166** S. 103(5A) inserted (1.4.2005) by [2002 c. 26, ss. 10, 87\(1\)](#), [Sch. 4 para. 17\(4\)](#); S.R. [2005/109, art. 2, Sch.](#)
- F167** Words in s. 103(6) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), [ss. 15\(2\), 148\(1\)](#), [Sch. 5 para. 36\(2\)](#); S.I. [2006/1014, art. 2\(a\)](#), Sch. 1 para. 12(a)
- F168** Words in s. 103(7) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), [ss. 15\(2\), 148\(1\)](#), [Sch. 5 para. 36\(3\)](#); S.I. [2006/1014, art. 2\(a\)](#), Sch. 1 para. 12(a)
- F169** Words substituted by [S.I. 1980/397 \(N.I. 3\)](#), [art. 68\(2\)](#), [Sch. 1 Pt. II](#)

#### <sup>F170</sup>103A Power of court of record to bind over

- (1) Any court of record in Northern Ireland having a criminal jurisdiction has, as ancillary to that jurisdiction, the power—
- (a) to bind over to keep the peace; or
  - (b) to bind over to be of good behaviour,
- a person who or whose case is before the court by requiring him to enter into his own recognisances or to find sureties (or both) and committing him to prison if he does not comply.
- (2) A magistrates’ court is not to be regarded as a court of record for the purposes of subsection (1).]

#### Textual Amendments

- F170** S. 103A inserted (1.4.2005) by [2002 c. 26, ss. 10, 87\(1\)](#), [Sch. 4 para. 18](#); S.R. [2005/109, art. 2, Sch.](#)

#### 104 Under-sheriffs.

<sup>F171</sup> .....

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### Textual Amendments

**F171** S. 104 repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15\(2\), 146, 148\(1\), Sch. 5 para. 37, Sch. 18 Pt. 3; S.I. 2006/1014, art. 2\(a\), Sch. 1 paras. 12\(a\), 30\(c\)](#)

## 105 Solicitors to be officers of court.

- (1) Any person duly admitted as a solicitor in Northern Ireland or entitled to practise therein as a solicitor shall be an officer of the Supreme Court, but nothing in this subsection shall affect the operation of any statutory provision (including a provision contained in this Act) which imposes on officers of a court restrictions as to practice as solicitors.
- (2) References in any statutory provision in force in Northern Ireland to attorneys or proctors shall be construed as references to solicitors of the Supreme Court.

## 106 Rights of audience in the High Court and Court of Appeal.

- (1) A solicitor of the Supreme Court shall have a right of audience in any proceedings in the High Court or the Court of Appeal respecting—
  - <sup>[F172]</sup>(a) any matter relating to individual voluntary arrangements or bankruptcy under Parts VIII to X of the Insolvency (Northern Ireland) Order 1989;
  - (b) any matter relating to company voluntary arrangements, receivership or the winding up of a company under Parts II and IV to VII of that Order of 1989]
  - (c) any matter to be heard in chambers or which is adjourned from chambers into court; or
  - (d) any matter in which counsel already instructed is for any reason unable to appear,
 without being required to instruct counsel, or other counsel as the case may be, and may act and plead therein as counsel might have acted or pleaded.
- (2) Where in any proceedings in the High Court or the Court of Appeal (other than proceedings to which subsection (1) relates) a solicitor has had no reasonable opportunity, having regard to all the circumstances, of adequately instructing counsel, the court, if of opinion that it is desirable in the interests of justice to do so, may grant the solicitor a right of audience as ample as that which counsel would have enjoyed.
- (3) A solicitor of the Supreme Court shall have a right of audience in any enquiries or proceedings before a statutory officer sitting in the exercise of his jurisdiction whether original or delegated; and any such officer may in his discretion permit such right of audience to be enjoyed by an experienced solicitor's clerk acting on behalf of his principal.
- (4) Nothing in this section shall take away or affect the inherent powers of any court or judge to confer a right of audience.

### Textual Amendments

**F172** S. 106(1)(a)(b) substituted (N.I.) (1. 10. 1991) by [S.I. 1989/2405, art. 381, Sch. 9 Pt. II para. 30; S.R. 1991/411, art.2.](#)

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## 107 Qualification for holding office of solicitors who have been barristers and vice versa.

- (1) For the purpose of any statutory provision or custom whereby the qualification of a solicitor for holding any office in Northern Ireland depends upon—
  - (a) his having been admitted for a specified period; or
  - (b) his having been admitted and in practice for a specified period, that period, in the case of a solicitor who before admission was a barrister, shall be deemed to include—
    - (i) where paragraph (a) applies, any period during which he was a barrister; and
    - (ii) where paragraph (b) applies, any period after his call to the bar during which he was in practice as a barrister.
- (2) For the purpose of any statutory provision or custom whereby the qualification of a barrister for holding any office in Northern Ireland depends upon—
  - (a) his having been called to the bar for a specified period; or
  - (b) his having been called to the bar and in practice for a specified period, that period, in the case of a barrister who before call was a solicitor, shall be deemed to include—
    - (i) where paragraph (a) applies, any period during which he was a solicitor; and
    - (ii) where paragraph (b) applies, any period after his admission as a solicitor during which he was in practice as such.
- (3) This section applies—
  - (a) to this Act and to any other statutory provision whether passed or made before or after this Act; and
  - (b) in relation to persons admitted as solicitors or called to the bar before, as well as after, the passing of this Act.

## 108 Election courts.

- (1) On or before 1st October in each year the judges of the High Court and the Court of Appeal shall select two of their number to be judges for the trial of parliamentary election petitions for the purposes of [F<sup>173</sup>section 123 of the M<sup>34</sup>Representation of the People Act 1983] and section 72(2) of the M<sup>35</sup>Electoral Law Act (Northern Ireland) 1962.
- (2) In the event of the death, retirement or unavailability through illness or other cause of any judge selected pursuant to this section, the judges of the High Court and the Court of Appeal shall as soon as may be convenient select one of their number to replace or act for him.

### Textual Amendments

F173 Words substituted by [Representation of the People Act 1983 \(c. 2, SIF 42\)](#), [Sch. 8 para. 25](#)

### Marginal Citations

M34 1983 c. 2.

M35 1962 c. 14 (N.I)

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## **109 Enrolment etc. of instruments.**

- (1) The Lord Chief Justice may make regulations with respect to the enrolment, engrossment, filing or registration in the Supreme Court of documents to which subsection (2) refers and specifying the form in which certificates of enrolment, engrossment, filing or registration are to be granted or the manner in which the respective rolls, registers or files of documents may be inspected.
- (2) Any document which is required or authorised by any statutory provision or rule of law or practice to be enrolled or engrossed or filed or registered in any manner in the Supreme Court (not being a document required to be filed or registered pursuant to rules of court) shall be deemed to have been duly enrolled, engrossed, filed or registered as the case may be, in compliance therewith if it is written on such material and has been filed or registered in such manner as may be authorised by regulations under this section and for this purpose “written” shall be taken as including typewritten, printed, engraved, lithographed, photographed or represented or reproduced by any mode of representing or reproducing words in a visible form.
- (3) Except as provided by subsection (2), nothing in regulations made under this section shall prejudice or affect the operation of any statutory provision requiring or authorising the enrolment, engrossment, filing or registration of deeds in the Supreme Court.

## **110 Court bonds.**

- (1) Rules of court may provide that bonds to be given for the purposes of any proceedings in the High Court or the Court of Appeal—
  - (a) shall be given in such form and to such officer of the court by his official title; and
  - (b) may be given by such surety companies, as may be prescribed.
- (2) The bond of a surety company prescribed under subsection (1) shall be sufficient without any other surety or any affidavit of justification but in other cases rules of court may prescribe or the court ordering the bond may require that one or more than one surety be joined in the bond.
- (3) Where a bond has been given for the purpose of proceedings in any court and it appears to the court, upon application made to it, that a condition of the bond has been broken, the court may order either—
  - (a) that the bond be enforced; or
  - (b) that the bond be assigned to a person named in the order for the purpose of being enforced by him.
- (4) In the case of an order under subsection (3) (a), the officer of the court to whom the bond was given and, in the case of an order under subsection (3) (b), the person to whom the bond was ordered to be assigned shall be entitled by virtue of the order to enforce the bond in his own name as if it had been originally given to him and shall hold, as trustee for all persons entitled thereto, all money recoverable for the breach of the condition in respect of which the order was made.
- (5) Any judge or officer having jurisdiction in a matter to which a bond relates may upon application made to him disallow or annul any bond upon evidence appearing to him to be sufficient to justify its disallowance or annulment.



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- (6) In this section “surety company” means a body corporate having a place of business in Northern Ireland and authorised by law to give bonds there by way of guarantee and indemnity.

### **111 Lost negotiable instruments.**

In any cause or matter founded on a negotiable instrument a court in Northern Ireland may order that the loss of such instrument shall not be set up, so long as an indemnity is given, to the satisfaction of the court or of an officer of the court specified by the court, against the claims of any other person upon such negotiable instrument.

### **112 Oaths and affidavits.**

- (1) The Lord Chief Justice may, in accordance with rules of court, appoint persons to act, subject to such conditions and such limits as to territory, duration or purpose as he may specify in the appointment, as commissioners for oaths or notaries public and, subject to those conditions and limits, the respective persons so appointed may exercise all the powers and shall perform all the duties conferred by the law of Northern Ireland on commissioners for oaths or notaries public, as the case may be.
- (2) A commissioner for oaths may, by virtue of his commission, in Northern Ireland or elsewhere, administer any oath or take any affidavit for the purposes of any court or matter in Northern Ireland, including any matters relating to applications for notarial faculties and matters relating to the registration of any instrument, whether under a statutory provision or otherwise, and take any bail or recognizance in or for the purpose of any civil proceeding in the High Court or the Court of appeal.
- (3) Every person who, being an officer of or performing duties in relation to any court, is for the time being so authorised by the [<sup>F174</sup>Lord Chief Justice] or by a judge of the court, or by or in pursuance of any rules or orders regulating the procedure of the court, and every person directed to take an examination in any cause or matter in the High Court or the Court of Appeal, shall have authority to administer any oath or take any affidavit required for any purpose connected with his duties.
- (4) Any oath or affidavit required for the purpose of any court or matter in Northern Ireland, or for the purpose of the registration of any instrument in any part of the United Kingdom, may be taken or made in any place out of Northern Ireland before any person having authority to administer an oath in that place.
- (5) In the case of a person having such authority otherwise than by the law of a foreign country, judicial and official notice shall be taken of his seal or signature affixed, impressed or subscribed to or on any such oath or affidavit.
- (6) Every commissioner before whom any oath or affidavit is taken or made under this Act shall state truly in the jurat or attestation at what place and on what date the oath or affidavit is taken or made.
- (7) In this section “affidavit” includes statutory or other declaration, acknowledgment, examination, and attestation or protestation of honour.
- [<sup>F175</sup>(8) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (3)—
  - (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

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(b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

**F174** Words in s. 112(3) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(2), 148(1), [Sch. 5 para. 38\(2\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(a)

**F175** S. 112(8) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15(2), 148(1), [Sch. 5 para. 38\(3\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(a)

### 113 Appointment of conveyancing counsel.

- (1) The High Court may, for the purposes of any civil cause or matter before it, appoint to act as conveyancing counsel to the court a person who has practised for not less than ten years at the Bar of Northern Ireland.
- (2) Rules of court may make provision with respect to the appointment and allowances of counsel appointed under subsection (1).

### 114 Other law in Northern Ireland courts.

- (1) For the purposes of proceedings before any court in Northern Ireland whether sitting with or without a jury, any question, as to the effect of evidence given with respect to the law of any country or territory outside Northern Ireland shall be a matter to be determined by the judge of the court.
- (2) Without prejudice to any other statutory provision or to any rule of law or practice, in proceedings before a court in Northern Ireland judicial notice may be taken of the law of England and Wales or of the law of the Republic of Ireland.
- (3) In proceedings before a court in Northern Ireland a person who is suitably qualified to do so on account of his knowledge or experience is competent to give expert evidence as to the law of any country or territory outside Northern Ireland, irrespective of whether he has acted, or is entitled to act, as a legal practitioner in that country or territory.
- (4) Where any question as to the law of any country or territory outside Northern Ireland with respect to any matter has been determined (whether before or after the commencement of this section) in any such proceedings as are mentioned in subsection (6), then in any subsequent proceedings before a court in Northern Ireland not otherwise empowered to take judicial notice of that determination—
  - (a) any finding made or decision given on that question in the first-mentioned proceedings shall, if reported or recorded in citable form, be admissible in evidence for the purpose of proving the law of that country or territory with respect to that matter; and
  - (b) if that finding or decision, as so reported or recorded, is adduced for that purpose, the law of that country or territory with respect to that matter shall be taken to be in accordance with that finding or decision unless the contrary is proved, but this paragraph shall not apply in the case of a finding or decision which conflicts with another finding or decision on the same question adduced by virtue of this subsection in the same proceedings.
- (5) Except with the leave of the court, a party to any proceedings shall not be permitted to adduce any such finding or decision by virtue of subsection (4) unless, before the

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hearing at which he seeks to adduce it, written notice that he intends to do so has been served on each of the other parties to the proceedings or on his solicitor.

- (6) The proceedings referred to in subsection (4) are the following, whether civil or criminal, namely—
- (a) proceedings at first instance in any of the following courts, namely the High Court or the Crown Court, or the High Court or the Crown Court in England and Wales;
  - (b) appeals arising out of any such proceedings as are mentioned in paragraph (a);
  - (c) proceedings before the Judicial Committee of the Privy Council on appeal (whether to Her Majesty in Council or to the Judicial Committee as such) from any decision of any court outside the United Kingdom.
- (7) For the purpose of this section a finding or decision on any such question as in mentioned in subsection (4) shall be taken to be reported or recorded in citable form if, but only if, it is reported or recorded in writing in a report, transcript or other document which, if that question had been a question as to the law of Northern Ireland could be cited as an authority in legal proceedings in Northern Ireland.

## 115 Official seals.

- (1) There shall be an official seal of the Supreme Court which shall be used for such purposes as the Lord Chief Justice may direct or as may be authorised or required by any statutory provision.
- (2) The seals heretofore used in the High Court and the Court of Appeal may continue to be used.
- (3) The Lord Chief Justice may from time to time direct what seals shall be used in the several divisions and departments of the Supreme Court.
- (4) All writs, decrees, orders, instruments, certificates and other documents and copies thereof which purport to be sealed with a seal provided under this section shall, in all parts of the United Kingdom, be judicially noticed and received in evidence without further proof of their authenticity.

## 116 Fees.

- (1) The Lord Chancellor, after consultation with the Lord Chief Justice and with the concurrence of the Treasury may by order fix the fees to be taken in any court in Northern Ireland or in any office or by any officer connected with any such court or by the Enforcement of Judgments Office and may from time to time increase, reduce or abolish any such fees or fix new fees to be so taken.

[<sup>F176</sup>(1A) Without prejudice to the generality of subsection (1), an order under that subsection may make provision for exemptions from fees and remission of fees (in whole or in part).]

- (2) The Lord Chancellor, after consultation with the Lord Chief Justice and with the concurrence of the Treasury, may by order fix the fees to be taken by commissioners for oaths or notaries public and may from time to time increase, reduce or abolish any such fees or fix new fees to be so taken.
- (3) Any functions heretofore exercisable by any other authority or person in relation to the fixing of the fees mentioned in subsections (1) and (2) shall cease to be exercisable.

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- (4) An order under subsection (1) or (2) may provide for the manner in which any fees fixed thereby are to be taken, applied and accounted for but, subject to any provision so made, the fees mentioned in those subsections shall continue to be taken, applied and accounted for as heretofore.

#### Textual Amendments

**F176** S. 116(1A) inserted (1.5.2004) by [Courts Act 2003 \(c. 39\)](#), **ss. 106, 110(1)**; [S.I. 2004/1104](#), **art. 3(g)**

### 117 Transfer of certain functions relating to courts to Lord Chancellor.

- (1) The functions heretofore exercisable by the Secretary of State under the enactments listed in subsection (2) and under any instrument made under any such enactment are hereby transferred to the Lord Chancellor.
- (2) The enactments referred to in subsection (1) are—
- (a) in the <sup>M36</sup>Administration of Justice Act (Northern Ireland) 1954, sections 11 and 14;
  - (b) the <sup>M37</sup>Coroners' Act (Northern Ireland) 1959;
  - (c) the <sup>M38</sup>County Courts Act (Northern Ireland) 1959;
  - (d) the <sup>M39</sup>Magistrates' Courts Act (Northern Ireland) 1964 (except sections 25(1) and 46);
  - (e) ..... **F177**
  - (f) ..... **F178**

#### Textual Amendments

**F177** S. 117(2)(e) repealed by [S.I. 1981/226 \(N.I. 6\)](#), **Sch. 4**

**F178** S. 117(2)(f) repealed by [S.I. 1980/397 \(N.I. 3\)](#), **Sch. 3**

#### Marginal Citations

**M36** 1954 c. 9 (N.I.)

**M37** 1959 c. 15 (N.I.)

**M38** 1959 c. 25 (N.I.)

**M39** 1964 c. 21 (N.I.)

### [<sup>F179</sup>117A Allowances for judges.

The Lord Chancellor shall pay to any judge of the Court of Appeal or of the High Court, in addition to his salary, such allowances as may be determined by the Lord Chancellor with the concurrence of the Treasury.]

#### Textual Amendments

**F179** S. 117A inserted by [Administration of Justice Act 1982 \(c. 53, SIF 38\)](#), **Sch. 8 para. 12**

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## PART XI

### INTERPRETATION AND GENERAL

#### 118 Application to the Crown.

- (1) The provisions of this Act shall bind the Crown but, as respects civil proceedings to which the <sup>M40</sup>Crown Proceedings Act 1947 applies, shall do so only so far as (but no further than) those proceedings can be brought by or against the Crown in accordance with that Act as it applies in Northern Ireland in relation to the Crown in right of Her Majesty's Government in the United Kingdom and in right of Her Majesty's Government in Northern Ireland.
- (2) . . . . . <sup>F180</sup>
- (3) In this section references to the Crown do not include reference to Her Majesty in Her private capacity nor to Her Majesty in right of Her Duchy of Lancaster, nor to the Duke of Cornwall and nothing in this section prejudices the operation of section 31(8) and (9).

#### Textual Amendments

**F180** S. 118(2) repealed by S.I. 1981/233, Sch. 1 Pt. I

#### Marginal Citations

**M40** 1947 c. 44.

#### 119 Making and control of subordinate legislation.

- (1) Any power conferred by the preceding provisions of this Act on the Lord Chancellor to make an order or rules or on the Lord Chief Justice to make regulations shall be exercisable by statutory rule for the purposes of the [<sup>F181</sup>Statutory Rules (Northern Ireland) Order 1979].
- (2) Any statutory rule made under any power conferred by this Act (except an order under section 68(3) or 116 or regulations under section 109) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the <sup>M41</sup>Statutory Instruments Act 1946 shall apply accordingly.
- (3) Any statutory instrument made under any power conferred by this Act to make an Order in Council (except any instrument made under section 2(3), 3(4), 62(6) or 97(2)) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Any power mentioned in subsection (1) to make an order and any power conferred by this Act to make an Order in Council includes power to vary or revoke the order or Order in Council by a subsequent order or Order in Council made under that power.
- (5) Any power conferred by this Act or by any enactment listed in section 117(2) <sup>F182</sup> . . . to give directions includes power to vary or revoke any directions so given.

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### Textual Amendments

**F181** Words substituted by S.I. 1979/1573 (N.I. 12), **Sch. 4 para. 24**

**F182** Words in s. 119(5) repealed (3.4.2006) by **Constitutional Reform Act 2005 (c. 4), ss. 15(2), 146, 148(1), Sch. 5 para. 39** {Sch. 18 Pt. 3}; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 12(a), 30(c)

### Marginal Citations

**M41** 1946 c. 36.

## 120 Interpretation.

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

“action” means a civil proceeding commenced by writ or in such other manner as may be prescribed by rules of court, but does not include a criminal proceeding by or in the name of the Crown;

“Attorney General” means the Attorney General for Northern Ireland;

“cause” includes any action, suit or other original proceeding between a plaintiff and a defendant, and any criminal proceeding by or in the name of the Crown;

“costs” includes fees, charges, disbursements, expenses or remuneration;

“court of assize” has the meaning assigned to it by section 42(1) of the <sup>M42</sup>Interpretation Act (Northern Ireland) 1954;

“Court of Criminal Appeal” means the Court of Criminal Appeal heretofore existing in Northern Ireland;

“county court” means a county court held for a division under the County Courts [<sup>F183</sup>(Northern Ireland) Order 1980];

“Criminal Appeal Act” means the <sup>M43</sup>Criminal Appeal (Northern Ireland) [<sup>F184</sup>Act 1980];

“defendant” includes any person served with any writ of summons or process or served with notice of, or entitled to attend, any proceedings;

“division” (except when used in relation to the holding of county courts) means division of the High Court;

“heretofore” means immediately before the date of the commencement of the provision in which it occurs;

“judgment” includes order, decision and decree;

“jurisdiction” includes power and authority;

“lower deciding authority” includes any inferior court or other tribunal and any authority exercising judicial or quasi-judicial functions;

“magistrates’ court” has the meaning assigned to it by [<sup>F185</sup>Article 2(2)(b) of the Magistrates’ Courts (Northern Ireland) Order 1981];

“matter” includes every proceeding in court not in a cause;

“party” includes every person served with notice of or attending any proceeding, although not named on the record;

“plaintiff” includes every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the proceeding is by action, suit, petition, motion, summons or otherwise;

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“pleading” includes a petition or summons, the statement in writing of the claim or demand of a party and of the defence or reply of a party to a claim or demand made against him;

“prescribed” means prescribed by rules of court;

“Royal Courts of Justice” means the building at Chichester Street, Belfast, in which sittings of the High Court and the Cour of Appeal have heretofore been held;

“rules of court” means rules of court (including forms) made by the Rules Committee;

“sentence” has the meaning assigned to it by [<sup>F184</sup>section 30 of the <sup>M44</sup>Criminal Appeal (Northern Ireland) Act 1980];

“statutory officer” has the meaning assigned to it by section 70(1);

“statutory provision” has the meaning assigned to it by section 1(f) of the <sup>M45</sup>Interpretation Act (Northern Ireland) 1954.

- (2) Any reference in this Act to a statutory provision shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any other statutory provision including this Act.
- (3) Section 38 of the <sup>M46</sup>Interpretation Act 1889 shall have the same effect in relation to any repeal by this Act of a statutory provision other than an Act of the Parliament of the United Kingdom as it has in relation to the repeal by this Act of such an Act.
- (4) In this Act, except where otherwise indicated,—
  - (a) a reference to a numbered Part, section or Schedule is a reference to the Part or section of, or the Schedule to, this Act so numbered;
  - (b) a reference in a section to a numbered subsection is a reference to the subsection of that section so numbered;
  - (c) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered; and
  - (d) a reference in a paragraph of a section, subsection or Schedule to a numbered sub-paragraph is a reference to the sub-paragraph of that paragraph so numbered.

#### Textual Amendments

**F183** Words substituted by [S.I. 1980/397 \(N.I. 3\)](#), [Sch. 1 Pt II](#)

**F184** Words substituted by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), s. 51(1), [Sch. 4 para. 18](#)

**F185** Words substituted by [S.I. 1981/1675 \(N.I. 26\)](#), art. 170(2), [Sch. 6 para. 54](#)

#### Marginal Citations

**M42** 1954 c. 33 (N.I.)

**M43** 1980 c. 47.

**M44** 1980 c. 47

**M45** 1954 c. 33 (N.I.)

**M46** 1889 c. 63.



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## 121 Financial provisions.

- (1) There shall be paid out of money provided by Parliament any sums required by a Minister of the Crown or government department for making payments under or by virtue of this Act, or for defraying the expenses of its operation.
- (2) There shall be paid out of money so provided or, as the case may be, out of or into the Consolidated Fund any increase attributable to this Act in the sums so payable under any other statutory provision.

## 122 Minor and consequential amendments, transitional provisions and repeals.

- (1) The minor and consequential amendments specified in Schedule 5 and the transitional provisions specified in Schedule 6 shall have effect as provided by those Schedules.
- (2) Subject to those transitional provisions and to section 38 of the <sup>M47</sup>Interpretation Act 1889 as extended by section 120(3), the statutory provisions mentioned in Schedule 7 (which includes certain obsolete or unnecessary enactments) are hereby repealed to the extent specified in the third column of that Schedule.

### Marginal Citations

M47 1889 c. 63.

## 123 Short title and commencement.

- (1) This Act may be cited as the Judicature (Northern Ireland) Act 1978.
- (2) This Act shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint, and different days may be so appointed for different provisions and for different purposes.
- (3) Without prejudice to the operation of Schedule 6, an order under subsection (2) may make such transitional provision as appears to the Lord Chancellor to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions or any provisions of this Act then in force, and such savings of the provisions repealed by Schedule 7, as appear to him to be necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the order).
- (4) Any reference in this Act to the commencement of a provision of this Act shall be construed as a reference to the day appointed under subsection (2) for the coming into operation of that provision.

### Modifications etc. (not altering text)

C33 Power of appointment conferred by s. 123(2) fully exercised: [S.I. 1978/1101](#), 1829; 1979/124, 422

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## SCHEDULES

### SCHEDULE 1

Section 41.

#### APPEALS TO HOUSE OF LORDS IN CERTAIN CRIMINAL MATTERS

- 1 (1) Subject to sub-paragraph (2) an application to the court below for leave to appeal shall be made within the period of [<sup>F186</sup>28] days beginning with the [<sup>F187</sup>relevant date]; and an application to the House of Lords for such leave shall be made within the period of [<sup>F186</sup>28] days beginning with the date on which the application is refused by the court below.
- [<sup>F188</sup>(1A) In sub-paragraph (1), “the relevant date” means—
- (a) the date of the decision of the court below, or
  - (b) if later, the date on which that court gives reasons for its decision.]
- (2) [<sup>F189</sup> . . . The House of Lords or the court below may, upon application made at any time by the defendant, extend the time within which an application may be made by him to that House or that court under sub-paragraph (1).

#### Textual Amendments

- F186** Words in Sch. 1 para. 1(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 105(1)(2)(a), 110(1); S.I. 2005/910, art. 3(x)
- F187** Words in Sch. 1 para. 1(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 105(1)(2)(b), 110(1); S.I. 2005/910, art. 3(x)
- F188** Sch. 1 para. 1(1A) inserted (1.4.2005) by Courts Act 2003 (c. 39), ss. 105(3), 110(1); S.I. 2005/910, art. 3(x)
- F189** Words in Sch. 1 para. 1(2) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110(1), Sch. 8 para. 198(2), Sch. 10; S.I. 2005/910, art. 3(y)

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[<sup>F190</sup> . . . . .

#### Textual Amendments

- F190** Sch. 1 para. 2 repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1)(3), 110(1), Sch. 8 para. 198(3), Sch. 10; S.I. 2005/910, art. 3(y)

- 3 (1) Without prejudice to any other power to grant bail, a person appealing or applying for leave to appeal from the Court of Appeal or the High Court under section 41 may be admitted to bail by the court below pending the appeal; and in relation to any recognizances to be entered into under [<sup>F191</sup>Article 148 of the Magistrates’ Courts (Northern Ireland) Order 1981] or under [<sup>F192</sup>Article 63 of the County Courts (Northern Ireland) Order 1980] any reference in [<sup>F192</sup>that section or that Article] to

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the judgment of the Court of Appeal shall be construed as including a reference to the judgment of the House of Lords or, if the case is remitted by that House to the Court of Appeal, to the judgment of that court on the case as so remitted.

- (2) Where application is made to the High Court or the Court of Appeal for leave to appeal, that court may give such directions as it thinks fit for discharging or enlarging any recognizances entered into by the applicant or any surety, under any statutory provision or otherwise, with reference to the proceedings of that court.

#### Textual Amendments

**F191** Words substituted by S.I. 1981/1675 (N.I. 26), s. 170(2), **Sch. 6 para. 55**

**F192** Words substituted by S.I. 1980/397 (N.I. 3), art. 168(2), **Sch. 1 Pt. II**

- 4 (1) Where the defendant in any proceedings from which an appeal lies under section 41 would, but for the decision of the court below, be liable to be detained, and immediately after that decision the prosecutor is granted, or gives notice that he intends to apply for, leave to appeal, the court may make an order providing for the detention of the defendant or directing that he shall not be released except on bail, which may be granted by the court as under paragraph 3 so long as any appeal under section 41 is pending.
- (2) An order under sub-paragraph (1) shall (unless the appeal has previously been disposed of) cease to have effect at the expiration of the period for which the defendant would have been liable to be detained but for the decision of the court below.
- (3) Any order made under sub-paragraph (1) for the detention of a defendant who, but for the decision of the court below, would be liable to be detained in pursuance of an order or direction under the Mental Health [<sup>F193</sup>(Northern Ireland) Order 1986 (other than under Article 42, 43 or 45)], shall be an order authorising his continued detention in pursuance of the order or direction under the [<sup>F193</sup>said Order], and the provisions of the [<sup>F193</sup>said Order] with respect to persons so liable (including provisions as to the renewal of authority for detention and the removal or discharge of patients) shall apply accordingly.
- [<sup>F194</sup>(3A) Where an order is made under sub-paragraph (1) in the case of a defendant who, but for the decision of the court below, would be liable to be detained in pursuance of an interim hospital order under Article 45 of the Mental Health (Northern Ireland) Order 1986, the order may, if the court thinks fit, be one authorising his continued detention in hospital and in that event—
- sub-paragraph (2) shall not apply to the order;
  - Part III of that Order shall apply as if he had been ordered under this paragraph to be detained in custody so long as any appeal under section 41 is pending and were detained in pursuance of a transfer direction together with a restriction direction; and
  - if the defendant is detained by virtue of this sub-paragraph and the appeal by the prosecutor succeeds, paragraph (2) of the said Article 45 (power of court to make hospital order in the absence of an offender who is subject to an interim hospital order) shall apply as if the defendant were still subject to an interim hospital order.]

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- (4) Where the court below has power to make an order under sub-paragraph (1) and either no such order is made or the defendant is released or discharged by virtue of sub-paragraph (2) [<sup>F193</sup>(3) or (3A)] before the appeal is disposed of, the defendant shall not be liable to be again detained as the result of the decision of the House of Lords on the appeal.

#### Textual Amendments

**F193** Words substituted by virtue of S.I. 1986/595 (N.I. 4), arts. 51(6), 136(1), **Sch. 5 Pt. II**

**F194** Sch. 1 para. 4(3A) inserted by S.I. 1986/595 (N.I. 4), arts. 51(6), 136(1), **Sch. 5 Pt. II**

- 5 (1) Where a person subject to a sentence is admitted to bail pending an appeal under section 41, the time during which he is at large after being so admitted shall be disregarded in computing the term of his sentence.
- (2) Subject to sub-paragraph (1), any sentence passed on an appeal under section 41 in substitution for another sentence shall, unless the House of Lords or the court below otherwise directs, begin to run from the time when that other sentence would have begun to run.
- 6 (1) Rules of court may be made—
- (a) for determining the cases in which the powers of the Court of Appeal under section 41 and this Schedule may be exercised by a judge thereof;
  - (b) for prescribing the persons before whom and the manner in which a recognizance shall be entered into, or other security given, where bail is granted to a person under paragraph 3 or 4 pending an appeal under section 41 from a decision of the High Court or Court of Appeal, and the manner in which any such recognizance or security may be enforced;
  - (c) for authorising the recommittal of any person to whom bail is granted.
- (2) A defendant who is detained pending an appeal under section 41 shall not be entitled to be present on the hearing of the appeal or of any proceedings preliminary or incidental thereto except where an order of the House of Lords or rules of court authorise him to be present or where that House or the court below, as the case may be, gives him leave to be present.

## SCHEDULE 2

Section 68.

### DEPARTMENTS OF THE SUPREME COURT

<i>Department</i>	<i>Officer</i>
F195	F195
...	...
The Central Office	Master (Queen's Bench and Appeals)
The Chancery Office	Master (Chancery)

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The Bankruptcy and Companies Office	Master (Bankruptcy)
The Probate and Matrimonial Office	Master (Probate and Matrimonial)
The Office of Care and Protection	Master (Care and Protection)
The Taxing Office	Master (Taxing Office)
[ <sup>F196</sup> The Official Solicitor's Office]	[ <sup>F196</sup> Official Solicitor]

#### Textual Amendments

**F195** Words in Sch. 2 repealed (15.10.2002) by 2002 c. 26, s. 86, **Sch. 13**; S.R. 2002/319, art. 2, **Sch.**

**F196** Entries added by S.R. 1982/300, art. 2

### SCHEDULE 3

Section 70

#### STATUTORY OFFICES

1. Office	Persons qualified		4. Functions of office
	2. Description	3. Standing	The functions heretofore exercised by the holder of the office of—
<sup>F197</sup>	<sup>F197</sup>	<sup>F197</sup>	<sup>F197</sup>
...	...	...	...
<sup>F197</sup>	<sup>F197</sup>	<sup>F197</sup>	<sup>F197</sup>
...	...	...	...
Master (Queen's Bench and Appeals)	<sup>F197</sup> ...	[ <sup>F198</sup> 7] years	Registrar of the Supreme Court.
...	...	...	...
<sup>F199</sup>	<sup>F199</sup>	<sup>F199</sup>	<sup>F199</sup>
Master (Chancery)	<sup>F197</sup> ...	[ <sup>F198</sup> 7] years	Chancery and Bankruptcy Registrar in relation to or in connection with Chancery matters.  Chief Clerk in relation to or in connection with Chancery matters other than wardship adoption and company matters.

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Master (Bankruptcy)	F197 ...	[ <sup>F198</sup> 7] years	Chancery and Bankruptcy Registrar in relation to or in connection with Bankruptcy matters.  Chief Clerk in relation to or in connection with company matters.
...	...	...	...
F200	F200	F200	F200
Master (Probate and Matrimonial)	F197 ...	[ <sup>F198</sup> 7] years	Chief Probate Registrar
...	...	...	...
F200	F200	F200	F200
Master (Care and Protection)	F197 ...	[ <sup>F198</sup> 7]years	Registrar in Lunacy.  Chief Clerk in relation to or in connection with wardship and adoption.
[ <sup>F201</sup> Master (High Court)]	F201 F197 ...	[ <sup>F201</sup> [ <sup>F198</sup> 7]years]	
...	...	...	...
F202	F202	F202	F202
Master (Taxing Office)	F197 ...	[ <sup>F198</sup> 7] years	Taxing Master.
Master (Enforcement of Judgments)	F197 ...	[ <sup>F198</sup> 7] years	Master for the Enforcement of Judgments.
...	...	...	...
F200	F200	F200	F200
[ <sup>F203</sup> District Judge]	F197 ...  F205 ...	7 years  F205 ...	District Probate Registrar [ <sup>F204</sup> Circuit Registrar.]

#### Textual Amendments

**F197** Words in Sch. 3 repealed (15.10.2002) by 2002 c. 26, ss. 17(1), 86, Sch. 13; S.R. 2002/319, art. 2, Sch.

**F198** Word in Sch. 3 substituted (15.10.2002) by 2002 c. 26, s. 18(9); S.R. 2002/319, art. 2, Sch.

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- F199** Office “Registrar (Queen's Bench and Appeals)” and the entries relating thereto removed by S.R. 1983/270, **art. 2(b)(ii)**
- F200** Offices “Registrar (Chancery and Bankruptcy)”, “Registrar (Probate and Matrimonial)” and “Judicial Officer (Enforcement of Judgments)” and the entries relating thereto removed by S.R. 1982/300, **art. 3(b)**
- F201** Words inserted by S.R. 1983/270, **art. 2(a)**
- F202** Office “Registrar (Care and Protection)” and the entries relating thereto removed by S.R. 1983/270, **art. 2(b)**
- F203** Words in **Sch. 3** substituted (28. 06. 1991) by virtue of S.R. 1991/230, **art. 2.**
- F204** Words in **Sch. 3** inserted (28. 06. 1991) by virtue of S.R. 1991/230, **art. 2.**
- F205** **Sch. 3:** entry relating to 'Official Solicitor' repealed (1.5.2004) by **Courts Act 2003 (c. 39), ss. 103(1), 109(3), 110(1), Sch. 10; S.I. 2004/1104, art. 3(e)(h)**

## SCHEDULE 4

Section 72(2).

### SUPERANNUATION OF STATUTORY OFFICERS

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

- C34** **Sch. 4:** power to amend conferred by S.I. 1988/1888 (N.I. 18), **art. 18(3)(j)**  
**Sch. 4:** power to modify conferred (7.2.1994) by 1993 c. 49, ss. 182, 183, 184, 186(2), **Sch. 5 Pt. II para. 17(2)(3)(j); S.R. 1994/17, art. 2**

- 1 In its application to a statutory officer in respect of his service as such the principal civil service pension scheme shall be modified as set out in paragraphs 2 and 3.
- 2 For the purpose of calculating reckonable service (but not qualifying service) any period of service after the commencement of section 70 shall be deemed to be increased by one third; but an officer shall not be deemed by virtue of this paragraph to have more than 40 years' reckonable service.
- 3 Notwithstanding paragraph 2, any lump sum payable in addition to pension under the scheme in respect of a period of actual service not exceeding 12 years shall be calculated in accordance with the following Table, with proportionate adjustment for any fraction of a year's service:—

<i>Length of service</i>	<i>Lump sum</i>
Up to 8 years	Three eightieths of pensionable pay for each year.
9 years	Thirtieth eightieths of pensionable pay.
10 years	Thirty six eightieths of pensionable pay.
11 years	Forty two eightieths of pensionable pay.
12 years	Forty eight eightieths of pensionable pay.

- 4 Expressions used in this Schedule and in the principal civil service pension scheme have the same meaning in this Schedule as in that scheme.



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## SCHEDULE 5

Section 122(1).

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART I

##### GENERAL AMENDMENTS

- 1 (1) Except where the contrary is expressly provided by or under this Act, references in any statutory provision to, or which are by virtue of any statutory provision heretofore in force to be construed as references to, the Supreme Court of Judicature of Northern Ireland, the High Court of Justice in Northern Ireland or the Court of Appeal in Northern Ireland or to divisions, judges, offices or officers of any such court, shall be construed, respectively, as references to the Supreme Court exclusive of the Crown Court, the High Court or the Court of Appeal as constituted under this Act and to the divisions, judges, offices or officers of those courts by which or by whom any jurisdiction or business to which the reference relates is for the time being to be exercised or transacted, whether by virtue of this Act or of any other statutory provision.
- (2) The reference in sub-paragraph (1) to business to be transacted includes a reference to any matter requiring the concurrence, approval, advice or consent of a judge or of more than one judge of the Supreme Court, the High Court or the Court of Appeal.
- 2 (1) In any statutory provision whether passed or made before, on or after the coming into operation of Part IV of this Act, for any reference or expression in the first column of the Table below there shall, in relation to Northern Ireland, be substituted the relevant reference or expression in the second column of the Table.
- (2) Sub-paragraph (1) shall not apply where the context otherwise requires and in particular shall not apply in relation to a sentence imposed, or other things done, by a court before the coming into operation of Part IV of this Act or to any reference to records of any court.

TABLE

<i>Reference</i>	<i>Substituted reference</i>
1. Court of gaol delivery or of oyer and terminer.	The Crown Court.
2. Court of assize, or assizes, where the context does not relate to civil jurisdiction.	The Crown Court
3. Court of assize, or assizes, where the context relates either to criminal or civil jurisdiction.	The Crown Court or the High Court or, as the case may be, the High Court and not the Crown Court.
4. The county court where the context relates to the jurisdiction of that	The Crown Court.

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	court to try persons on indictment.	
5.	Judge, justice or commissioner of assize, or judge acting during assizes.	The Crown Court or the High Court or both, according as the reference is to criminal jurisdiction or civil jurisdiction or to both.
6.	County court judge or recorder where the context relates to the jurisdiction of the county court to try persons on indictment.	The Crown Court.
7.	Clerk of the Crown and peace where the context relates to the jurisdiction of the county court to try persons on indictment or to the criminal jurisdiction of courts of assize.	The appropriate officer of the Crown Court.
8.	Other officer in the county court service for Northern Ireland whose duties related exclusively to the criminal jurisdiction of courts of assize.	The appropriate officer of the Crown Court.
9.	Clerk of the court where the court is the Crown Court.	The appropriate officer of the Crown Court.
3	References in any statutory provision to rules made under section 7 of the <sup>M48</sup> Northern Ireland Act 1962 or which are by virtue of any statutory provision heretofore in force to be construed as references to such rules shall be construed as references to rules of court made under section 55 of this Act.	

**Marginal Citations**

M48 1962 c. 30.

4 Paragraphs 1 to 3 apply subject to the provisions of this Act and, in particular, do not prejudice the operation of any specific amendments contained in this Schedule.

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## PART II

### SPECIFIC AMENDMENTS

#### (1) ACTS OF THE PARLIAMENT OF THE UNITED KINGDOM

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

**C35** The text of Sch. 5 Pt. II(1) is in the form in which it was originally enacted: it was not wholly reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

F206  
 . . .

##### Textual Amendments

**F206** Entry relating to [Crown Debts Act 1801 \(c. 90\)](#) repealed by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45\)](#), Sch. 13 Pt. I para. 3, [Sch. 14](#)

#### *The <sup>M49</sup>Writ of Subpoena Act 1805*

##### Marginal Citations

**M49** [1805 c. 92.](#)

In sections 3 and 4 references to a writ of subpoena requiring the appearance of a person to give evidence shall be construed as including references to any summons or order issued by the Crown Court in Northern Ireland for the appearance of a person before it.

#### *The Tumultuous Risings (Ireland) Act 1831 <sup>M50</sup>*

##### Marginal Citations

**M50** [1831 c.44](#)

In section 9 for the words from “the judge, assistant barrister” to “court as aforesaid” substitute the words “any judge of the Crown Court” and for the words from “clerk of the crown, clerk of the peace” to “them forthwith” substitute the words “appropriate officer of that court”.

#### *The Constabulary (Ireland) Act 1836*

F207  
 . . .

##### Textual Amendments

**F207** Entry in Sch. 5 Pt. II repealed (N.I.) (1.4.1999) by [1998 c. 32, s. 74\(2\)\(3\)](#), Sch. 5, [6](#) (with [Sch. 5 para. 1](#)); [S.I. 1999/176](#), [art. 3](#) (with [art. 4](#))

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### *The Parliamentary Documents Deposit Act 1837*<sup>M51</sup>

#### **Marginal Citations**

**M51** [1837 c.83](#)

For any reference to the clerk of the peace there shall, as respects Northern Ireland, be substituted a reference to the clerk of the district council.

F208  
.....

#### **Textual Amendments**

**F208** Sch. 5 Pt. II: Entry relating to the Slave Trade Act 1843 repealed (19.11.1998) by [1998 c. 43, s. 1\(1\)](#), [Sch. 1, Pt. VIII](#)

### *The Lands Clauses Consolidation Act 1845*<sup>M52</sup>

#### **Marginal Citations**

**M52** [1845 c.18](#)

At the end of section 3 add the following definition— “ “Supreme Court” shall mean the Supreme Court of Judicature of Northern Ireland where the same shall relate to monies to be paid or deposited in respect of lands situate in Northern Ireland. ”.

Section 9 shall, in the case of purchase money or compensation for damage or injury to, lands in Northern Ireland, have effect with the insertion after the words “deposited in the Bank” of the words “or the Supreme Court”.

Section 69 shall, in the case of purchase money or compensation payable in respect of, or of an interest in, or for damage to, lands in Northern Ireland, have effect with the substitution for the words from “be paid into the Bank” to “the said courts” of the words “be paid into the Supreme Court”.

Section 70 shall, in the case of money paid into the Supreme Court, have effect with the substitution for the words from “and until the money” to “annual proceeds thereof paid” of the words “and if, before it is so applied, it is dealt with under section 81 or 82 of the Judicature (Northern Ireland) Act 1978, the annual proceeds thereof shall be paid”.

Section 71 shall, in the case of purchase money or compensation payable in respect of, or of an interest in, or for damage to, lands in Northern Ireland, have effect with the substitution for the words “into the Bank” where they twice occur of the words “into the Supreme Court”.

Section 73 shall, in the case of money payable in respect of the taking, using or interfering with lands in Northern Ireland, have effect with the substitution for the words “into the Bank” where they twice occur of the words “into the Supreme Court”.

Section 76 shall, in the case of, or of an interest in, lands in Northern Ireland that have, or has, been purchased or taken, have effect with the substitution for the words from “to deposit the

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purchase money” to the end of the words “to pay into the Supreme Court the purchase money or compensation payable in respect of such lands”.

Section 78 shall, in the case of purchase money or compensation payable in respect of, or of an interest in, lands in Northern Ireland, have effect as if, after the word “so” (in both places where it occurs) there were inserted the words “paid or” and as if for the words from “order such money” to “thereof” (where it last occurs) there were substituted the words “order distribution of the money according to the respective estates, titles or interests of the parties making claim to such money or lands, or any part thereof, and if, before the money is distributed, it is dealt with under section 81 or 82 of the Judicature (Northern Ireland) Act 1978 payment likewise of the dividends thereof”.

Section 84 shall, in the case of lands in Northern Ireland, have effect with the substitution for the words “deposited in the Bank” of the words “paid into the Supreme Court”.

Section 85 shall, in the case of lands in Northern Ireland have effect as if for the words “to deposit in the Bank”, the words “so to be deposited”, the words “for deposit in the Bank”, the words “deposited in the Bank” and the words “such deposit” there were respectively substituted the words “to pay into the Supreme Court”, the words “so to be paid”, the words “for payment into the Supreme Court”, the words “paid into the Supreme Court” and the words “such payment”.

The Act shall, in its application to Northern Ireland, have effect with the substitution for sections 86, 87 and 88 of the following section:—

**“86 Application of Funds in Court.**

Money paid under section 85 of this Act into the Supreme Court shall remain there by way of security to the parties whose lands shall so have been entered upon for the performance of the condition of the bond to be given by the promoters of the undertaking, as hereinbefore mentioned, and, if dealt with under section 81 or 82 of the Judicature (Northern Ireland) Act 1978 shall be accumulated; and upon the condition of such bond being fully performed the High Court may, on the application of the promoters, order it, or the proceeds of the securities in which it has been invested, together with the accumulation thereof, to be paid to the promoters of the undertaking, or if such condition shall not be fully performed it shall be lawful for the said Court to order the same to be applied, in such manner as it shall think fit, for the benefit of the parties for whose security the same shall have been paid.”.

Section 89 shall, in the case of lands in Northern Ireland, have effect as if for the words “deposited the same in the Bank” there were substituted the words “paid the same into the Supreme Court”.

Section 99 shall, in the case of lands in Northern Ireland, have effect with the substitution for the words “and upon payment or deposit in the Bank of the compensation so determined” of the words “and upon payment of the compensation so determined either to the persons entitled thereto or into the Supreme Court”.

Section 100 shall, in the case of lands in Northern Ireland, have effect with the substitution for the words “on deposit thereof in the Bank” of the words “on payment thereof into the Supreme Court”, with the substitution for the words “deposited as aforesaid” of the words “paid into the Supreme Court as aforesaid” and with the substitution for the words from “by payment” to the end of the words “by payment, as hereinafter provided, of compensation for the same either to the persons entitled thereto or into the Supreme Court”.

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Section 107 shall, in the case of lands in Northern Ireland over which commonable or other rights subsist, have effect with the substitution for the words “deposit in the Bank in the manner provided in the like case” of the words “payment into the Supreme Court” with the omission of the words “or deposited” and with the substitution for the words “so deposited” of the words “so paid into the Supreme Court”.

Section 109 shall, in the case of lands in Northern Ireland subject to a mortgage, have effect with the substitution for the words “to deposit in the bank, in the manner provided by this Act in like cases” of the words “to pay into the Supreme Court”.

Section 111 shall, in the case of lands in Northern Ireland subject to a mortgage, have effect with the substitution for the words from “to deposit” to “every such payment or deposit” of the words “to pay into the Supreme Court the amount of such value or compensation; and the making of payment to the mortgagee or into the Supreme Court” and for the words “by such payment or deposit” of the words “by payment to the mortgagee or into the Supreme Court”.

Section 113 shall, in the case of lands in Northern Ireland subject to a mortgage, have effect with the substitution for the words from “to pay the amount” to “such payment or deposit” of the words “to pay into the Supreme Court the amount of such value or compensation; and the making of payment to the mortgagee or into the Supreme Court”.

Section 117 shall, in the case of lands in Northern Ireland charged with payments or incumbrances not otherwise provided for in the Act, have effect with the substitution for the words from “to deposit” to “like cases”, of the words “to pay into the Supreme Court the amount of the compensation”.

In Schedule A as it applies to the conveyance of land, or an interest in land, in Northern Ireland, for the words from “Bank” where first occurring to “Chancery” substitute the words “the Supreme Court”.

### *The Indictable Offences Act 1848* <sup>M53</sup>

#### **Marginal Citations**

**M53** [1848 c.42](#)

In sections 12 and 14 for any reference to justices of oyer and terminer or gaol delivery in Northern Ireland, there shall be substituted a reference to the Crown Court there.

**F209**

#### **Textual Amendments**

**F209** Entries relating to [Trustee Act 1850 \(c. 60\)](#) repealed by [S.I. 1986/595 \(N.I. 4\)](#), art. 138, [Sch. 7](#)

### *The Railways Act (Ireland) 1851* <sup>M54</sup>

#### **Marginal Citations**

**M54** [1851 c.70](#)

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In section 19 for the words from “into the Bank of Ireland” to “Court of Chancery in Ireland” substitute the words “into the Supreme Court of Judicature of Northern Ireland” and for the words “into the said Bank” substitute the words “into that Court”.

*The Fines Act (Ireland) 1851* <sup>M55</sup>

**Marginal Citations**

**M55** 1851c.90

In section 1 for the words from “the several officers” to “the proceedings” substitute the words “as follows:—

- (a) for a magistrates’ court, the clerk of petty sessions ; and
- (b) for any other court, such person as may be prescribed by the rules regulating the procedure of that court, or if no person is so prescribed, the person charged with the duty of recording the proceedings of the court.”.

F210

**Textual Amendments**

**F210** Entries in Sch. 5 Pt. II repealed (31.7.1996) by [S.I. 1996/1141](#)(N.I. 6), art. 32(3), Sch. 5; [S.R. 1996/267](#), [art.2](#)

F210

In section 10 for the words “several assistant barristers, recorders of cities or boroughs and”, the words “assistant barrister, recorder” and the words “assistant barrister or recorder” substitute the words “judge of the Crown Court”.

*The Petty Sessions (Ireland) Act 1851* <sup>M56</sup>

**Marginal Citations**

**M56** 1851 c. 93.

In section 30 for the reference to justices of oyer and terminer and general gaol delivery in Northern Ireland there shall be substituted a reference to the Crown Court there.

F211

**Textual Amendments**

**F211** Entry relating to [Trustee Act 1852 \(c. 55\)](#) ss. 6, 7 repealed by [S.I. 1986/595](#) (N.I. 4), art. 138, [Sch. 7](#)



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### *The Irish Bankrupt and Insolvent Act 1857*<sup>M57</sup>

#### **Marginal Citations**

**M57** 1857 c. 60.

F212

#### **Textual Amendments**

**F212** First and third entries relating to [Irish Bankrupt and Insolvent Act 1857 \(c. 60\)](#) repealed by S.I. 1980/561 (N.I. 4), [Sch. 3](#)

In section 4 for the definition of “the Court” substitute— “ “the Court” shall mean the High Court of Justice in Northern Ireland; ”.

F212

F213

#### **Textual Amendments**

**F213** Entry relating to [Probates and Letters of Administration Act \(Ireland\) 1857 \(c. 79\)](#) repealed by S.I. 1979/1575 (N.I. 14), [Sch. 3](#)

### *The Landed Estates Court (Ireland) Act 1858*<sup>M58</sup>

#### **Marginal Citations**

**M58** 1858 c. 72.

In section 56 for the words from “into the Bank of Ireland” to “receipt of the money” substitute the words “into the Supreme Court of Judicature of Northern Ireland (“the Supreme Court”) and” ; and the words “into the bank” shall cease to have effect.

In section 57 for the words “into the Bank of Ireland” and “into the said Bank” (wherever they occur) substitute the words “into the Supreme Court”.

In section 66 for the words “the Lord High Chancellor” and “in him” substitute respectively the words “the High Court” and “in it”.

In section 70 for the words from “transferred” to “Chancery in England” substitute the words “paid into the Supreme Court or (where the case may require) the Supreme Court of Judicature of England”; for the words from “and the High Court” to “Rolls” substitute the words “and the High Courts of Justice”; for the words “transferred to the account of the Accountant General of” substitute the words “paid into”; and for the words from “the Act passed” to the end substitute the words “section 63 of the Trustee Act 1925 or section 63 of the Trustee Act (Northern Ireland) 1958”.

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### *The Railways Act (Ireland) 1860*<sup>M59</sup>

#### **Marginal Citations**

**M59** [1860 c. 97.](#)

In section 2 for the words “depositing in the Bank of Ireland as herein directed” substitute the words “paying into the Supreme Court of Judicature of Northern Ireland”.

In section 4 for the words “deposited as last aforesaid shall remain in the Bank” substitute the words “paid into the Supreme Court is”.

### *The Defence Act 1860*<sup>M60</sup>

#### **Marginal Citations**

**M60** [1860 c.112.](#)

In sections 21 and 22 for the words “the Bank of Ireland” substitute the words “the Supreme Court in Northern Ireland”.

### *The Tramways (Ireland) Act 1860*<sup>M61</sup>

#### **Marginal Citations**

**M61** [1860 c. 152.](#)

In section 29, for paragraphs 1 and 2, substitute—

“**1** Within fourteen days after the making of the Order they shall either pay into the Supreme Court a sum equal to five per centum of the estimated cost of the undertaking, or deposit in the Court, or transfer into the name of the Accountant General, Exchequer bills or other Government securities equal to that sum at the price at which such bills or securities were originally purchased by the promoters, which price shall be proved by the broker’s certificate of such purchase.”.

### *The Matrimonial Causes and Marriage Law (Ireland) Amendment Act 1870*<sup>M62</sup>

#### **Marginal Citations**

**M62** [1870 c. 110.](#)

In section 7 for the words from “in a court of record” to the end substitute the words “in Her Majesty’s High Court of Justice in Northern Ireland”.

In section 13 for the words from the beginning to “Court for Matrimonial Causes and Matters” substitute the words “In exercising the jurisdiction referred to in section 7 the High Court” and for the words from “and to the rules” to the end substitute the words “and to rules of court”.

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.  
**Changes to legislation:** Judicature (Northern Ireland) Act 1978 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**

**F214** Entries relating to Lunacy Regulation (Ireland) Act 1871 (c. 22) repealed by S.I. 1986/595 (N.I. 4), art. 138, **Sch. 7**

F215

**Textual Amendments**

**F215** Sch. 5 Pt. II: entry relating to the Juries Act (Ireland) 1871 repealed (31.7.1996) by S.I. 1996/1141 (N.I. 6), art. 32(3), **Sch. 5**; S.R. 1996/267, **art. 2**

*The Bankruptcy (Ireland) Amendment Act 1872* <sup>M63</sup>

**Marginal Citations**

**M63** 1872 c. 58.

In section 4 for the definition of “the Court” substitute—

“ “The Court” shall mean the High Court of Justice in Northern Ireland; ”.

F216

**Textual Amendments**

**F216** Entries relating to Bankruptcy (Ireland) Amendment Act 1872 (c. 58), **ss. 57** and 124 repealed by S.I. 1980/561 (N.I. 4), **Sch. 3**

F216

F217

**Textual Amendments**

**F217** Sch. 5 Pt. 2 Entry relating to Consolidated Fund (Permanent Charges Redemption) Act 1873 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **s. 1(1)**, {Sch. 1 Pt. 9 Group 1}

*The Fines Act (Ireland) 1851, Amendment Act 1874* <sup>M64</sup>

**Marginal Citations**

**M64** 1874 c.72.

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** *Judicature (Northern Ireland) Act 1978* is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

In section 2 for the words “assistant barrister, recorder” substitute the words “judge of the Crown Court”.

F218 .....

**Textual Amendments**

**F218** Sch. 5 Pt. 2: entry relating to Explosives Act 1875 repealed (1.12.2006) by [The Manufacture and Storage of Explosives Regulations \(Northern Ireland\) 2006 \(S.R. 2006/425\)](#), reg. 27(1)(2), Sch. 6 para. 11, [Sch. 7 Pt. 1](#) (with reg. 26)

*The Appellate Jurisdiction Act 1876*<sup>M65</sup>

**Marginal Citations**

**M65** [1876 c.59](#).

In section 25 for the words “As to Ireland, the superior courts of law and equity at Dublin:” substitute the words “As to Northern Ireland, Her Majesty’s High Court of Justice in Northern Ireland and Her Majesty’s Court of Appeal in Northern Ireland”.

*The Settled Estates Act 1877*<sup>M66</sup>

**Marginal Citations**

**M66** [1877 c.59](#).

In section 34 for the words “the Bank of Ireland to the account of the Accountant General ex parte the applicant” substitute the words “the Supreme Court to the account of the applicant”.

*The Bills of Sale (Ireland) Act 1879*<sup>M67</sup>

**Marginal Citations**

**M67** [1879 c. 50](#).

In section 4 for the definition of “prescribed” substitute—

“ “prescribed” means prescribed by rules of court made under section 55 of the *Judicature (Northern Ireland) Act 1978*; ”

For section 13 substitute—

**“13 As to registrar.**

The Master (Queen’s Bench and Appeals) or such other officer serving in the Supreme Court as the Lord Chief Justice may designate shall be the registrar for the purposes of this Act.”.

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

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For section 19 substitute—

**“19 Fees.**

Section 116 of the Judicature (Northern Ireland) Act 1978 shall apply to fees under this Act and such fees may be fixed in the manner authorised by that section.”

*The Settled Land Act 1882* <sup>M68</sup>

**Marginal Citations**

**M68** 1882 c.38.

At the end of section 2 as it applies to Northern Ireland add—

“(11) Any reference in the Settled Land Acts 1882 to 1890 to money, securities or proceeds of sale being paid or transferred into court shall be construed as referring to the money, securities or proceeds being paid or transferred into the Supreme Court or any other court that has jurisdiction, and any reference in those Acts to the court in a context referring to the investment or application of money, securities or proceeds of sale paid or transferred into court, shall be construed, in the case of money, securities or proceeds paid or transferred into the Supreme Court, as referring to the High Court, and, in the case of money, securities or proceeds paid into another court, as referring to that other court.”.

*The Land Law (Ireland) Act 1887* <sup>M69</sup>

**Marginal Citations**

**M69** 1887 c.33.

In section 34 in the definition of “prescribed” for the words from “other proceedings” to the end substitute the words “other proceedings means prescribed by rules of court made under section 55 of the Judicature (Northern Ireland) Act 1978 or county court rules, as the case may be;”

*The Deeds of Arrangement Act 1887* <sup>M70</sup>

**Marginal Citations**

**M70** 1887 c. 57.

In section 15(2) for the words “the eighty-fourth section of the Supreme Court of Judicature Act (Ireland) 1877 as regards Ireland” substitute the words “as respects Northern Ireland, section 116 of the Judicature (Northern Ireland) Act 1978”.

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** *Judicature (Northern Ireland) Act 1978* is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

*The Deeds of Arrangement Amendment Act 1890*<sup>M71</sup>

**Marginal Citations**

**M71** 1890 c.24.

In section 2(7) for the words “the eighty-fourth section of the Supreme Court of Judicature Act (Ireland) 1877” substitute the words “section 116 of the Judicature (Northern Ireland) Act 1978”.

*The Witnesses (Public Inquiries) Protection Act 1892*<sup>M72</sup>

**Marginal Citations**

**M72** 1892 c. 64.

In section 3, as it applies to Northern Ireland, for the words “quarter sessions or assizes” substitute the words “Crown Court”.

*The Life Insurance Companies (Payment into Court) Act 1896*<sup>M73</sup>

**Marginal Citations**

**M73** 1896 c. 8.

In section 3, as it applies to Northern Ireland, for the words from “High Court” to “into the High Court” substitute the words “Supreme Court”.

F219 .....

**Textual Amendments**

**F219** Sch. 5 Pt. II: entry relating to the Town Tenants (Ireland) Act 1906 repealed (1.4.1997) by S.I. 1996/725 (N.I. 5), art. 44(3), Sch. 4; S.R. 1997/74, art.2

*The Northern Ireland (Miscellaneous Provisions) Act 1932*<sup>M74</sup>

**Marginal Citations**

**M74** 1932 c. 11.

In section 9(3) for the words “under the Landed Estates Court (Ireland) Act 1858 or any Act amending that Act or under the Land Purchase Acts an application is made” substitute the words “an application is made to the High Court or to a county court”.

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.  
**Changes to legislation:** Judicature (Northern Ireland) Act 1978 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

*The Foreign Judgments (Reciprocal Enforcement) Act 1933* <sup>M75</sup>

**Marginal Citations**

**M75** 1933 c. 13.

In section 13(b) for the words from “respectively” to the end substitute the words “respectively, references to sections 55 and 116 of the Judicature (Northern Ireland) Act 1978”.

F220  
...

**Textual Amendments**

**F220** Sch. 5 Pt. II: the entry relating to the Trade Marks Act 1938 repealed (31.10.1994) by 1994 c. 26, s. 106(2), **Sch. 5**; S.I. 1994/2550 art. 2

*The Pensions Appeal Tribunals Act 1943* <sup>M76</sup>

**Marginal Citations**

**M76** 1943 c. 39.

F221  
.....

**Textual Amendments**

**F221** Sch. 5 Pt. 2: entries repealed (6.4.2005) by **Armed Forces (Pensions and Compensation) Act 2004** (c. 32), ss. 7(4), 8, **Sch. 3**; S.I. 2005/356, **art. 2(2)**, Sch. 2

In section 14 for the words from “Lord Chancellor” to the end substitute the words “Lord Chancellor (except the reference in paragraph 7A of the Schedule) there shall be substituted references to the Lord Chief Justice of Northern Ireland”.

F221  
.....

F222  
...

**Textual Amendments**

**F222** Entry relating to **Exchange Control Act 1947** (c. 14), **Sch. 4 para. 8(2)** repealed by **Finance Act 1987** (c. 16, SIF 99:6), s. 72, **Sch. 16 Pt. XI**

F223  
.....

**Textual Amendments**

**F223** Entries relating to **Crown Proceedings Act 1947** (c. 44) repealed (N.I.) by S.I. 1981/233, **Sch. 1**



**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** *Judicature (Northern Ireland) Act 1978* is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F224  
 . . .

**Textual Amendments**

**F224** Entries relating to [Representation of the People Act 1949 \(c. 68\)](#) repealed by [Representation of the People Act 1983 \(c. 2, SIF 42\)](#), **Sch. 9 Pt. II**

F225  
 . . .

**Textual Amendments**

**F225** Sch. 5 Pt. II: Entry relating to the Arbitration Act 1950 repealed (31.1.1997) by [1996 c. 23, s. 107\(2\)](#), **Sch.4; S.I. 1996/3146, art. 3, Sch. 2**

*The Maintenance Orders Act 1950*<sup>M77</sup>

**Marginal Citations**

**M77** [1950 c. 37](#).

F226  
 . . .

**Textual Amendments**

**F226** Sch. 5 Pt. II: entry relating to s. 13(1) of The Maintenance Orders Act 1950 repealed (4.11.1996) by [S.I. 1995/756, art. 15](#), Sch.; [S.R. 1996/297, art. 2\(2\)](#)

In section 25(2) for the words from the beginning to “regulating” substitute the words “Rules made under section 23 of the Magistrates’ Courts Act (Northern Ireland) 1964 may regulate”.

In section 28(1) in the definition of “prescribed” for the words “by the Lord Chief Justice of Northern Ireland under this Act” substitute the words “under section 23 of the Magistrates’ Courts Act (Northern Ireland) 1964”.

*The Administration of Justice Act 1956*<sup>M78</sup>

**Marginal Citations**

**M78** [1956 c. 46](#).

In Part I of Schedule 1 after paragraph 4 insert—

*“ Bail in Admiralty matters*

4A In any proceedings in the High Court under this Part of this Schedule, bail may be taken to answer the judgement of the High Court (or of the Court of Appeal or House

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of Lords on an appeal from that judgement) and the High Court may withhold the release of any property under its arrest until such bail has been given.”.

*The Geneva Conventions Act 1957*<sup>M79</sup>

**Marginal Citations**

**M79** 1957 c. 52.

In section 4(1) as substituted by section 52 of, and Schedule 5 to, the<sup>M80</sup>Criminal Appeal Act 1968, for the words “the Court of Criminal Appeal in Northern Ireland” substitute the words “the Court of Appeal in Northern Ireland”.

**Marginal Citations**

**M80** 1968 c. 19.

*The Administration of Justice Act 1960*<sup>M81</sup>

**Marginal Citations**

**M81** 1960 c. 65.

In paragraph 2 of Schedule 2 for the word “accordingly” substitute the words “as references to a court of the High Court of Justice in Northern Ireland consisting of two or more judges”.

*The Professions Supplementary to Medicine Act 1960*<sup>M82</sup>

**Marginal Citations**

**M82** 1960 c. 66.

In paragraph 2(2) of Schedule 2 after the words “Supreme Court of Judicature (Consolidation) Act 1925” insert the words “, of section 67 of the Judicature (Northern Ireland) Act 1978”.

*The Veterinary Surgeons Act 1966*<sup>M83</sup>

**Marginal Citations**

**M83** 1966 c. 36.

In paragraph 4(2) of Schedule 2 after the words “Supreme Court of Judicature (Consolidation) Act 1925” insert the words “, of section 67 of the Judicature (Northern Ireland) Act 1978”.

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** *Judicature (Northern Ireland) Act 1978* is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

*The Arbitration (International Investment Disputes) Act 1966*<sup>M84</sup>

**Marginal Citations**

**M84** 1966 c. 41.

In section 8(b) for the words “section 7 of the Northern Ireland Act 1962” substitute the words “section 55 of the Judicature (Northern Ireland) Act 1978”.

... F227

**Textual Amendments**

**F227** Entries relating to [Criminal Appeal \(Northern Ireland\) Act 1968 \(c. 21\)](#) repealed by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), s. 51(2), [Sch. 5](#)

*The Family Law Reform Act 1969*<sup>M85</sup>

**Marginal Citations**

**M85** 1969 c. 46.

In section 6(7) for the words “or under any corresponding enactment of the Parliament of Northern Ireland” substitute the words “or under section 27 of the Judicature (Northern Ireland) Act 1978”.

*The Administration of Justice Act 1969*<sup>M86</sup>

**Marginal Citations**

**M86** 1969 c. 58.

In section 16(1) for the words from “sections 3” to “1877” substitute the words “section 3 of the Judicature Act 1925 there shall be substituted a reference to sections 6 and 7 of the Judicature (Northern Ireland) Act 1978”.

In sections 20(5) and 21(4) for the words “section 7 of the Northern Ireland Act 1962” substitute the words “section 55 of the Judicature (Northern Ireland) Act 1978”.

*The Taxes Management Act 1970*<sup>M87</sup>

**Marginal Citations**

**M87** 1970 c. 9.

In sections 58(2) and 59(5) for the words “section 1 of the Northern Ireland Act 1962” substitute the words “section 42 of the Judicature (Northern Ireland) Act 1978”.

... F228

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Judicature (Northern Ireland) Act 1978 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Textual Amendments

**F228** Entry relating to [Income and Corporation Taxes Act 1970 \(c. 10\)](#), [s. 413\(6\)](#) repealed by [Income and Corporation Taxes Act 1988 \(c. 1, SIF 63:1\)](#), s. 844, [Sch. 31](#)

#### *The Administration of Justice Act 1970* <sup>M88</sup>

#### Marginal Citations

**M88** [1970 c. 31](#).

In section 34(2) for the words “section 7 of the Northern Ireland Act 1962” substitute the words “section 55 of the Judicature (Northern Ireland) Act 1978”.

#### *The Misuse of Drugs Act 1971* <sup>M89</sup>

#### Marginal Citations

**M89** [1971 c. 38](#).

In paragraph 5(2) of Schedule 3 after the words “Supreme Court of Judicature (Consolidation) Act 1925” insert the words “, of section 67 of the Judicature (Northern Ireland) Act 1978”.

#### <sup>F229</sup>*The Tribunals and Inquiries Act 1971* <sup>M90</sup>

#### Textual Amendments

**F229** Entry in Sch. 5 Pt. II relating to [Tribunals and Inquiries Act 1971](#) repealed (1.10.1992) by [Tribunals and Inquiries Act 1992 \(c. 53\)](#), ss. 18(2), 19(2), [Sch. 4 Pt. I](#)

#### Marginal Citations

**M90** [1971 c. 62](#).

**F229**  
...

#### <sup>F230</sup>*The Administration of Justice Act 1973*

#### Textual Amendments

**F230** Entry relating to [Administration of Justice Act 1973 \(c. 15\)](#) repealed by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), [Sch. 5](#)

**F230**  
...

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

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*F231 The Social Security (Northern Ireland) Act 1975 <sup>M91</sup>*

**Textual Amendments**

**F231** Sch. 5 Pt. II: the enactment constituting the amendment to the Social Security (Northern Ireland) Act 1975 is repealed (1.7.1992) by [Social Security \(Consequential Provisions\) \(Northern Ireland\) Act 1992 \(c. 9\)](#), ss. 3, 7(2), [Sch.1](#) (with s. 5(2))

**Marginal Citations**

**M91** 1975 c. 15.

F231

*The House of Commons Disqualification Act 1975 <sup>M92</sup>*

**Marginal Citations**

**M92** 1975 c. 24.

In section 1(3) in the definition of “civil service of the Crown” after the words “Northern Ireland” insert the words “, the Northern Ireland Court Service”.

In Part I of Schedule 1 for the words from “or Temporary County Court Judge” to “deputy of such a Judge” substitute the words “or deputy County Court Judge in Northern Ireland”.

In Part III of Schedule 1 the entry relating to an officer of or attached to the Supreme Court of Northern Ireland shall cease to have effect and at the appropriate place in alphabetical order insert—

“ Statutory officer appointed under section 70 of the Judicature (Northern Ireland) Act 1978. ”.

*The Northern Ireland Assembly Disqualification Act 1975 <sup>M93</sup>*

**Marginal Citations**

**M93** 1972 c. 25.

In section 1(2) in the definition of “civil service of the Crown” after the words “Northern Ireland” insert the words “, the Northern Ireland Court Service”.

In Part I of Schedule 1 for the words from “Temporary County Court Judge” to “deputy of such a Judge” substitute the words “or deputy County Court Judge in Northern Ireland”.

In Part III of Schedule 1 the entry relating to an officer of or attached to the Supreme Court of Northern Ireland shall cease to have effect and at the appropriate place in alphabetical order insert— “ Statutory officer appointed under section 70 of the Judicature (Northern Ireland) Act 1978. ”.

*The Northern Ireland (Emergency Provisions) Act 1978*

F232

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

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### Textual Amendments

**F232** Sch. 5 Pt. II, the entry relating to the Northern Ireland (Emergency Provisions) Act 1978 repealed (27.8.1991) by [Northern Ireland \(Emergency Provisions\) Act 1991 \(c. 24, SIF 39:1\)](#), ss. 69(), 70(4), Sch.8

## (2) ACTS OF THE IRISH PARLIAMENT AND PARLIAMENT OF NORTHERN IRELAND

### Modifications etc. (not altering text)

**C36** The text of Sch. 5 Pt. II(2)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

### *The Habeas Corpus Act (Ireland) 1781* <sup>M94</sup>

### Marginal Citations

**M94** [1781 c. 11 \(Ir.\)](#).

In section 2 for the words from “in the court of the King’s bench” to “case shall require” substitute the words “in the Crown Court”.

In section 8 for the words “judge of assize” substitute the words “judge of the Crown Court”.

### *The Bankruptcy Amendment Act (Northern Ireland) 1929* <sup>M95</sup>

### Marginal Citations

**M95** [1929 c. 1. \(N.I.\)](#).

In section 21(1) for the words from the beginning to “providing” substitute the words “Rules of Court may provide” and for the words from the end of paragraph (b) onwards substitute the words “and may provide for any matters for which provision may be necessary in order to give full effect to this section and prescribe anything which is to be prescribed thereunder”.

In section 28(1)—

(a) in the definition of “The court” for the words from “a judge” to the end substitute the words “the High Court” ;

(b) in the definition of “Prescribed” for the words from “section sixty-one” to the end substitute the words “section 55 of the Judicature (Northern Ireland) Act 1978”.

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

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*The Motor Vehicles and Road Traffic Act (Northern Ireland) 1929* <sup>M96</sup>

**Marginal Citations**

**M96** 1929 c. 21 (N.I.).

In section 7(3) for the words from “such division or court of the Supreme Court” to the end substitute the words “the Court of Appeal and the decision of that Court shall be final”.

*The Planning and Housing Act (Northern Ireland) 1931* <sup>M97</sup>

**Marginal Citations**

**M97** 1931 c. 12. (N.I.).

In section 34(4) and (5) for the words “Supreme Court” wherever they occur substitute the words “Court of Appeal”.

In section 45(3) for the words “Supreme Court” substitute the words “High Court”.

*The Evidence Act (Northern Ireland) 1939* <sup>M98</sup>

**Marginal Citations**

**M98** 1939 c. 12. (N.I.).

In section 5(1) after the words “rules of court” insert the words “and county court rules”.

*The Matrimonial Causes Act (Northern Ireland) 1939* <sup>M99</sup>

**Marginal Citations**

**M99** 1939 c. 13. (N.I.).

In the long title and in section 1 for the words “Supreme Court” substitute the words “High Court”.

In section 4(1)(a) for sub-paragraph (i) substitute—  
“(i) an order of the High Court; or”.

For section 27(2) substitute—

“(2) Rules of court may be made under section 55 of the *Judicature (Northern Ireland) Act 1978* for prescribing anything which by this Act is to be prescribed”.

In section 30(1) for the definition of “High Court” substitute— “ “High Court” includes the Master (Probate and Matrimonial) exercising such jurisdiction of the court as may be prescribed in that behalf by rules made under section 55 of the *Judicature (Northern Ireland) Act 1978* ”.

In section 30(1) in the definition of “Presentation” for the words “Principal Probate Registry” substitute the words “Probate and Matrimonial Office”.



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*The Landlord and Tenant (War Damage) Act (Northern Ireland) 1941* <sup>M100</sup>

**Marginal Citations**

[M100 1941 c. 9.](#) (N.I.).

For section 33(7) substitute—

“(7) If any party to any proceedings in the county court under this Act is dissatisfied with the order, determination, direction or decision of the court he may appeal therefrom to the High Court”

In section 38(1) in the definition of “rules of court” for the words from “require” to the end substitute the words “require, rules under section 55 of the Judicature (Northern Ireland) Act 1978,”.

*The Criminal Justice Act (Northern Ireland) 1945* <sup>M101</sup>

**Marginal Citations**

[M101 1945 c. 15.](#) (N.I.).

In section 35(1) for the words “a court of assize or of quarter sessions” substitute the words “the Crown Court or a county court”.

In section 35(7) for the words “the rules under this Act” substitute the words “Crown Court rules”.

F233

**Textual Amendments**

**F233** Sch. 5 Pt. II: entry relating to the Probation Act (Northern Ireland) 1950 repealed (1.1.1998) by [S.I. 1996/3160](#) (NI 24) art. 58(3), Sch. 7; [S.R. 1997/523](#), [art. 2\(k\)](#)

*The Prison Act (Northern Ireland) 1953* <sup>M102</sup>

**Marginal Citations**

[M102 1953 c. 18.](#) (N.I.).

In section 6 for the words “a court of assize or quarter sessions” substitute the words “the Crown Court”.

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

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*The Administration of Justice Act (Northern Ireland) 1954* <sup>M103</sup>

**Marginal Citations**

**M103** 1954 c. 9. (N.I.).

For section 11 substitute—

**“11 Local custody and control of courthouse accommodation.**

The Lord Chancellor may give directions as the local custody and control of any courthouse accommodation provided or maintained under this Act.”.

In section 14(1) for the words from the beginning to “on behalf of the Ministry” substitute the words “The Lord Chancellor” and for the word “Ministry” where it twice occurs substitute the words “Lord Chancellor”.

*The Interpretation Act (Northern Ireland) 1954* <sup>M104</sup>

**Marginal Citations**

**M104** 1954 c. 33. (N.I.).

In section 21—

(a) in subsection (2) for the words “Ministry of Finance” substitute the word “Treasury”;

(b) for subsection (4) substitute—

“(4) In any enactment—

“rules of court” shall mean rules of court made, or having effect as if made, under section 55 of the *Judicature (Northern Ireland) Act 1978*;

“Crown Court rules” shall mean rules made under section 52 of the *Judicature (Northern Ireland) Act 1978*.”;

(c) in subsection (6) after paragraph (a) insert—

“(aa) in relation to the Crown Court, references to the Crown Court rules;”.

In section 42—

(a) in subsection (1) for the definition of “county court” substitute—

““Crown Court” shall mean Her Majesty’s Crown Court in Northern Ireland;

“county court” shall mean a county court held for a division under the *County Courts Act (Northern Ireland) 1959*;”;

(b) in subsection (3) for the definition of “Probate Judge” substitute—

““Probate Judge” shall mean the Judge of the High Court to whom probate business and matters are for the time being assigned.”.

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Judicature (Northern Ireland) Act 1978 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### *The Trustee Act (Northern Ireland) 1958*<sup>M105</sup>

#### **Marginal Citations**

**M105** 1958 c. 23. (N.I.).

In sections 35(9) and 57(4) for the words “Lord Cheif Justice or Registrar in Lunacy” substitute the words “High Court or the Master (Care and Protection)”.

In section 67 omit the definition of “pay” and at the end of section 66 add—

- “(3) Any reference in this Act to paying money or securities into court shall be construed as referring to paying the money or transferring or depositing the securities into or in the Supreme Court or into or in the county court that has jurisdiction, and any reference in this Act to payment of money or securities into court shall be construed—
- (a) with reference to an order of the High Court, as referring to payment of the money or transfer or deposit of the securities into or in the Supreme Court; and
  - (b) with reference to an order of a county court, as referring to payment of money or transfer or deposit of the securities into or in the court.”.

### *The Coroners Act (Northern Ireland) 1959*<sup>M106</sup>

#### **Marginal Citations**

**M106** 1959 c. 15. (N.I.).

In section 1, for the words from the beginning to “responsible” substitute the words “The Lord Chancellor shall be responsible”.

[<sup>F234</sup>In section 2(1), for the words from the beginning to “may appoint” substitute the words “The Lord Chancellor may appoint” and for the words from “the Minister, after” to the end substitute the words “the Lord Chancellor, after consultation with the Treasury, may determine and may also, in exercise of his powers under section 69 of the Judicature (Northern Ireland) Act 1978, appoint coroner’s officers and other officers to assist coroners”.]

#### **Textual Amendments**

**F234** Sch. 5 Pt. II: entry relating to ss. 2(1)(2), 3, 6(2) repealed (3.4.2006 in regard to s. 2(2) and 12.4.2010 otherwise) by 2002 c. 26, ss. 86, 87(1), **Sch. 13**; S.R. 2006/124, art. 2, **Sch.**; S.R. 2010/113, art. 2, Sch. para. 21(i)

[<sup>F234</sup>In sections 2(2) and 3 for the word “Minister” substitute the words “Lord Chancellor”.]

...

In section 5 for the words from “moneys” to the end substitute the words “moneys provided by the Parliament of the United Kingdom”.

In section 6(2) for the word “Minister” where it twice occurs substitute the words “Lord Chancellor”.

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** *Judicature (Northern Ireland) Act 1978 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

In sections 11(3), 26 and 27(2) for the word “Ministry” wherever it occurs substitute the words “Lord Chancellor”.

In section 36(1) for the words from the beginning to the end of paragraph (a) substitute—

**(1)** The Lord Chancellor may by rules—

- (a) made after consultation with the Treasury, make provision with respect to the records, accounts and returns which the Lord Chancellor may require coroners to keep and submit to him and with respect to information to be supplied by coroners;”.

For section 36(2) substitute—

“(2) The Lord Chancellor may with the consent of the Minister of the Civil Service determine—

- (a) the salaries or fees and superannuation to be paid to coroners and to registered medical practitioners employed under section 27(2);  
 (b) the fees and allowances payable to person assisting at the post-mortem examinations;  
 (c) the allowances payable to witnesses under this Act.”.

*The County Courts Act (Northern Ireland) 1959<sup>M107</sup>*

**Marginal Citations**

**M107** 1959 c. 25. (N.I.).

F235  
 . . .

**Textual Amendments**

**F235** Entries relating to [County Courts Act \(Northern Ireland\) 1959 \(c. 25\)](#) (N.I.), ss. 3(1), 5, 6(2), 6(4)(a), 33(3)(a), 36, 38, 55, 63, 71(3), 114, 142(1), 144, 145(1), 146, 147, 152(1) repealed by [S.I. 1980/397](#) (N.I. 3), [art. 69\(2\)](#), [Sch. 3](#)

F236  
 . . .

**Textual Amendments**

**F236** Sch. 5 Pt. II: entry relating to s. 105 repealed (15.10.2002 in regard to s. 105(3) and 3.4.2006 in regard to s. 105) by [2002 c. 26, s. 86, Sch. 13](#); [S.R. 2002/319, art. 2, Sch.](#); [S.R. 2006/124, art. 2, Sch.](#)

For section 106 substitute—

**“106 Salaries and allowances of judges.**

- (1) There shall be paid to each judge such salary as may be determined by the Lord Chancellor with the consent of the Minister for the Civil Service.
- (2) The salary payable to any judge shall begin from the date on which the judge takes the oaths required by section 105(3).

*Status:* Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

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- (3) The Lord Chancellor with the approval of the Minister for the Civil Service may allow to any judge, for the purposes of defraying his travelling and subsistence expenses, such sum as appears reasonable.”.

F237

#### Textual Amendments

**F237** Entries relating to [County Courts Act \(Northern Ireland\) 1959 \(c. 25\)](#) (N.I.), ss. 3(1), 5, 6(2), 6(4)(a), 33(3)(a), 36, 38, 55, 63, 71(3), 114, 142(1), 144, 145(1), 146, 147, 152(1) repealed by [S.I. 1980/397](#) (N.I. 3), [art. 69\(2\)](#), [Sch. 3](#)

In section 116—

- (a) for the words “Ministry of Finance” wherever they occur substitute the words “Minister for the Civil Service”;
- (b) for the word “Minister” wherever it occurs substitute the words “Lord Chancellor”;
- (c) for the word “Governor” in subsection (4) substitute the words “Lord Chancellor”.

In sections 123(2), 125(3) and 126, for the words “Ministry of Finance” wherever they occur substitute the words “Minister for the Civil Service”.

In section 132 for the word “Ministry” substitute the words “Lord Chancellor”.

For section 134 substitute—

#### “134 Evidence of health.

Before recommending any person to Her Majesty for appointment as a county court judge, the Lord Chancellor shall take steps to satisfy himself that that person’s health is satisfactory.”.

In section 136 for the words from the beginning to the beginning of paragraph (a) substitute the words “There shall be charged on and paid out of the Consolidated Fund of the United Kingdom” and for the words “Ministry of Finance” substitute the word “Treasury”.

In section 137 for the words from “provided by” to “all expenses” substitute the words “provided by the Parliament of the United Kingdom all expenses”.

F238

#### Textual Amendments

**F238** Entries relating to [County Courts Act \(Northern Ireland\) 1959 \(c. 25\)](#) (N.I.), ss. 3(1), 5, 6(2), 6(4)(a), 33(3)(a), 36, 38, 55, 63, 71(3), 114, 142(1), 144, 145(1), 146, 147, 152(1) repealed by [S.I. 1980/397](#) (N.I. 3), [art. 69\(2\)](#), [Sch. 3](#)

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

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*The Resident Magistrates' Pensions Act (Northern Ireland) 1960*<sup>M108</sup>

**Marginal Citations**

**M108** 1960 c. 2.(N.I.).

In section 1 for the words from “on attaining the age of seventy years” to the end substitute the words “at the end of the completed year of service in which he attains the age of seventy; but where the Lord Chancellor considers it desirable in the public interest to retain him in office after that time, the Lord Chancellor may from time to time authorise him to continue in office up to such age, not exceeding seventy-two, as the Lord Chancellor thinks fit”.

F239

...

**Textual Amendments**

**F239** Entries relating to [Companies Act \(Northern Ireland\) 1960 \(c. 22\)](#) (N.I.), ss. 349(9), 389(1)(3) repealed by S.I. 1986/1035 (N.I. 9), art. 24, **Sch. 2**

F240

...

**Textual Amendments**

**F240** Entries relating to [Mental Health Act \(Northern Ireland\) 1961 \(c. 15\)](#) (N.I.), ss. 1(1)(f), 25, 45, 48(1), 55(1), 56(6), 59(2)(a)–(c), 63(2), 69(1)(d), 73(1), 74, 79(4), 87(1)(2), 101(8)(a), 111(2), 117(2) repealed by S.I. 1986/595 (N.I. 4), art. 138, **Sch. 7**

*The Electoral Law Act (Northern Ireland) 1962*<sup>M109</sup>

**Marginal Citations**

**M109** 1962 c. 14.(N.I.).

For section 72(2) substitute—

“(2) An election court for the trial of petitions relating to parliamentary elections (in this Act referred to as a “parliamentary election court”) shall consist of the two judges of the High Court or the Court of Appeal for the time being selected under section 108 of the *Judicature (Northern Ireland) Act 1978*.”.

In section 83(2), (3) and (4) for the words “Supreme Court” substitute the words “Court of Appeal”.

In paragraph 17(2) of Schedule 3, for the words “Supreme Court” substitute the words “Court of Appeal”.

F241

...

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**Changes to legislation:** Judicature (Northern Ireland) Act 1978 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Textual Amendments**

**F241** Entries relating to [County Courts Appeals Act \(Northern Ireland\) 1964 \(c. 3\)](#) (N.I.) repealed by [S.I. 1980/397 \(N.I. 3\)](#), art. 69(2), [Sch. 3](#)

*The Magistrates' Courts Act (Northern Ireland) 1964<sup>M110</sup>*

**Marginal Citations**

**M110** [1964 c. 21](#). (N.I.).

For section 3 substitute—

**“3 Justices of the peace.**

Justices of the peace shall be appointed in accordance with section 103 of the Judicature (Northern Ireland) Act 1978.”.

In section 6(1) for the words from “member of” to the end substitute the words “member of the Northern Ireland Court Service, notary public or commissioner for oaths”.

**F242**  
.....

**Textual Amendments**

**F242** Sch. 5 Pt. II: entry relating to s. 7 repealed (15.10.2002) by [2002 c. 26, s. 86, Sch. 13](#); [S.R. 2002/319, art. 2 Sch.](#)

In section 10(1) for the word “Governor” wherever it occurs substitute the words “Lord Chancellor” and for the words “being persons who are eligible for appointment as, or have previously been, resident magistrates”.

**F243**  
.....

**Textual Amendments**

**F243** Sch. 5 Pt. II: entry relating to s. 11 repealed (3.4.2006) by [2002 c. 26, ss. 86, 87\(1\), Sch. 13](#); [S.R. 2006/124, art. 2, Sch.](#)

In section 12(1) for the words from the beginning to “the salaries” substitute the words “make an application for the judicial review to the Minister for the Civil Service, determine the salaries”.

**F244**  
.....

**Textual Amendments**

**F244** Entries relating to [Magistrates' Courts Act \(Northern Ireland\) 1964 \(c. 21\)](#) (N.I.) (except the entries relating to ss. 3, 6(1), 7, 10(1), 11, 12(1) and 168(2) ) repealed by [S.I. 1981/1675 \(N.I. 26\)](#), [Sch. 7](#)

For section 168, substitute—



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**“168 Expenses.**

- (1) .....
- (2) There shall be charged on and paid out of the Consolidated Fund of the United Kingdom the salaries payable to resident magistrates under this Act or the Resident Magistrates (Belfast) Act 1911.
- (3) .....”

*The Lands Tribunal and Compensation Act (Northern Ireland) 1964<sup>M111</sup>*

**Marginal Citations**  
M111 1964 c. 29.(N.I.).

F245 .....

**Textual Amendments**  
F245 Sch. 5 Pt. II: entry relating to s. 2 repealed (3.4.2006) by 2002 c. 26, ss. 86, 87(1), Sch. 13; S.R. 2006/124, art. 2, Sch.

*The Charities Act (Northern Ireland) 1964<sup>M112</sup>*

**Marginal Citations**  
M112 1964 c. 33.(N.I.).

In section 30(1) for the words “The chief registrar of the Principal Probate Registry of the High Court” substitute the words “The Master (Probate amd Matrimonial)” and for the words from “that Registry” to the end substitute the words “the Probate and Matrimonial Office, or of which a copy has been forwarded to him from a branch office of that Office.”.

F246 .....

**Textual Amendments**  
F246 Entries relating to [Legal Aid and Advice Act \(Northern Ireland\) 1965 \(c. 8\)](#) (N.I.) repealed by [S.I. 1981/228 \(N.I. 8\)](#), art. 42(4), [Sch. 4](#)

**Textual Amendments**  
F246 Entries relating to [Legal Aid and Advice Act \(Northern Ireland\) 1965 \(c. 8\)](#) (N.I.) repealed by [S.I. 1981/228 \(N.I. 8\)](#), art. 42(4), [Sch. 4](#)

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

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*The Maintenance and Affiliation Orders Act (Northern Ireland) 1966*<sup>M113</sup>

**Marginal Citations**

**M113** 1966 c. 35.(N.I.).

In section 10(2) after paragraph (e) insert—

“(f) section 27 of the Judicature (Northern Ireland) Act 1978”

F247

**Textual Amendments**

**F247** Entry relating to [Building Societies Act \(Northern Ireland\) 1967 \(c. 31\)](#) (N.I.) s. 98 repealed by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), s. 120(2)(3), **Sch. 19 Pt. III**

**Textual Amendments**

**F247** Entry relating to [Building Societies Act \(Northern Ireland\) 1967 \(c. 31\)](#) (N.I.) s. 98 repealed by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), s. 120(2)(3), **Sch. 19 Pt. III**

*The Costs in Criminal Cases Act (Northern Ireland) 1968*<sup>M114</sup>

**Marginal Citations**

**M114** 1968 c. 10.(N.I.).

In section 4 for the words “Court of Criminal Appeal” wherever they occur substitute the words “Court of Appeal”.

For section 7 substitute—

**“7 Rules relating to costs.**

Rules of court, Crown Court rules, county court rules and magistrates’ court rules may provide for the rates or scales of payment of costs under section 2 to 5 in so far as those sections relate to costs in the Court of Appeal, the Crown Court, county courts and magistrates’ courts respectively.”.

*The Treatment of Offenders Act (Northern Ireland) 1968*<sup>M115</sup>

**Marginal Citations**

**M115** 1968 c. 29 (N.I.)

In sections 19(4), 20(3), 21(3), 25 and 29(1) for the words “a court of assize or county court” wherever they occur substitute the words “the Crown Court”.

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In section 19(4) for the words “the judge of the court of assize or county court, as the case may be” substitute the words “the judge of the Crown Court”.

In section 20(1) for the words from “any court of assize” to “brought or” substitute the words “the Crown Court or”.

In section 20(5) for the words “sentenced or ordered to be detained” substitute the word “tried”.

In section 21(1) for the words “or county borough” substitute the words “court division”.

In section 21(2) for the words “High Court judge or a county court judge” substitute the words “judge of the Crown Court”.

F248  
 . . .

#### Textual Amendments

**F248** Entry relating to [Treatment of Offenders Act \(Northern Ireland\) 1968 \(c. 29\)](#) (N.I.), s. 25(3) repealed by [S.I. 1989/1344 \(N.I. 15\)](#), art. 14(2), [Sch. 2](#)

### *The Children and Young Persons Act (Northern Ireland) 1968*<sup>M116</sup>

#### Marginal Citations

**M116** [1968 c. 34 \(N.I.\)](#).

F249  
 . . .

#### Textual Amendments

**F249** Sch. 5 Pt. II: entries repealed (31.1.1999) by [S.I. 1998/1504 \(N.I. 9\)](#), arts. 1(2), 65(2), [Sch. 6](#); [S.R. 1999/25](#), [art. 2\(d\)](#)

F249  
 . . .

F249  
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F249  
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F250  
 . . .

#### Textual Amendments

**F250** Sch. 5 Pt. II: entries repealed (15.6.2005) by [2002 c. 26](#), ss. 86, 87(1), [Sch. 13](#); [S.R. 2005/281](#), [art. 3](#), [Sch. 2](#)

F251  
 . . .

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

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#### Textual Amendments

**F251** Sch. 5 Pt. II: entry repealed (4.11.1996) by [S.I. 1995/755 \(N.I. 2\)](#), [arts. 1\(2\), 185\(2\)](#), [Sch. 10](#) (with [Sch. 8 para. 1\(1\), 23\(4\)](#)); [S.R. 1996/297](#), [art. 2\(2\)](#)

**F250**  
...

In Schedule 2—

**F250**  
...

(b) [<sup>F252</sup>in paragraphs 1(3) and 8 for the word “Ministry” wherever it occurs substitute the words “Lord Chancellor”];

#### Textual Amendments

**F252** Sch. 5 Pt. II: entry relating to Sch. 2 para. 1(3) repealed (15.6.2005) by [2002 c. 26, ss. 86, 87\(1\)](#), [Sch. 13](#); [S.R. 2005/281](#), [art. 3](#), [Sch. 2](#)

**F250**  
...

**F253**  
...

#### Textual Amendments

**F253** Sch. 5 Pt. II: entry relating to Sch. 2 para. 2(2) repealed (15.10.2002) by [2002 c. 26, s. 86](#), [Sch. 13](#); [S.R. 2002/319](#), [art. 2 Sch.](#)

**F250**  
...

(f) at the end of paragraph 8 add—

“(d) be subject to annulment in pursuance of resolution if either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instrument Act 1946 shall apply accordingly.”

*The Grand Jury (Abolition) Act (Northern Ireland) 1969<sup>M117</sup>*

#### Marginal Citations

**M117** [1969 c. 15.\(N.I.\)](#).

In section 2(1) for the words “a court of assize or to a county court” substitute the words “the Crown Court”.

In section 2(2)(c) for the words “Court of Criminal Appeal” substitute the words “Court of Appeal”.

In section 2(2)(e) for the words “Supreme Court or a county court judge” substitute the words “High Court, Court of Appeal or Crown Court”.

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In section 2(3) for the words “a court of assize or a county court” substitute the words “the Crown Court”.

*The Judgments (Enforcement) Act (Northern Ireland) 1969*<sup>M118</sup>

**Marginal Citations**

**M118** 1969 c. 30 (N.I.).

F254      F255

**Textual Amendments**

**F254** Entries relating to [Judgments \(Enforcement\) Act \(Northern Ireland\) 1969 \(c. 30\)](#) (N.I.), except those relating to s. 128(1) and Pt. II of Sch. 4 to that Act repealed by S.I. 1981/226 (N.I. 6), **Sch. 4**

**F255** Entry relating to [Judgments \(Enforcement\) Act \(Northern Ireland\) 1969 \(c. 30\)](#) (N.I.) s. 128(1) repealed by S.I. 1981/233, **Sch. 1 Pt. I**

... F254

In Part II of Schedule 4 in the amendment to the <sup>M119</sup>*Irish Bankrupt and Insolvent Act 1857* for the word “regulations” substitute the word “rules”.

**Marginal Citations**

**M119** 1857 c. 60.

*The Nurses and Midwives Act (Northern Ireland) 1970*<sup>M120</sup>

**Marginal Citations**

**M120** 1970 c. 11 (N.I.).

In section 46(3) for the words “The Attendance of Witnesses Act 1854” substitute the words “Section 67 of the *Judicature (Northern Ireland) Act 1978*”.

*The Registration of Deeds Act (Northern Ireland) 1970*<sup>M121</sup>

**Marginal Citations**

**M121** 1970 c. 25 (N.I.).

In section 3(7) for the words “Supreme Court” substitute the words “High Court or the Court of Appeal”.

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*The Leasehold (Enlargement and Extension) Act (Northern Ireland) 1971* <sup>M122</sup>

**Marginal Citations**

**M122** 1971 c. 7 (N.I.).

In sections 5(4) and 11(4) for the words “Registrar of the Department for the Affairs of Patients (Northern Ireland)” substitute the words “Master (Care and Protection)”.

In section 5(7) for the words “Lord Chief Justice” wherever occurring substitute the words “the High Court”. <sup>F256</sup>

**Textual Amendments**

**F256** Entry relating to [Licensing Act \(Northern Ireland\) 1971 \(c. 13\)](#) (N.I.) repealed by [S.I. 1990/594 \(N.I. 6\)](#), art. 90(4), [Sch. 13](#)

...

*The Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971* <sup>M123</sup>

**Marginal Citations**

**M123** 1971 c. 30 (N.I.).

In section 3 for the words “rules made under section 13” substitute the words “Judgement Enforcement Rules”.

In section 9(3) for the words “a Judge of the High Court” substitute the words “the Court of Appeal”.

In section 9(4) for the words “Judge of the High Court” substitute the words “High Court or the Court of Appeal”.

In section 16(1)—

- (a) in the definition of “appropriate authority” for the words “Minister of Home Affairs” substitute the words “Lord Chancellor”;
  - (b) in the definition of “Master” for the words “for the enforcement of judgements” substitute the words “(Enforcement of Judgements)” and for the words “designated officer” substitute the words “Judicial Officer (Enforcement of Judgements)”.
- (3) **Orders in Council**

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

**C37** The text of Sch. 5 Pt. II(2)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Status:** Point in time view as at 03/11/2008. This version of this Act contains provisions that are not valid for this point in time.

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

**C37** The text of Sch. 5 Pt. II(2)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

*The Northern Ireland (Crown Proceedings) Order 1949*<sup>M124</sup>

**Marginal Citations**

**M124** S.I. 1949/1836.

In Article 3(3) for the words from the beginning to “1897” substitute the words “The expression “rules of court” shall mean rules made under section 55 of the Judicature (Northern Ireland) Act 1978”.

*The Prosecution of Offences (Northern Ireland) Order 1972*<sup>M125</sup>

**Marginal Citations**

**M125** S.I. 1972/538 (N.I. 1).

In Article 4(10)(a), before the words “any county court or” insert the words “the Crown Court or in”.

In Article 5(1)(g) for the words “certiorari, mandamus, prohibition or other prerogative order or injunction” substitute the words “judicial review”.

<sup>f257</sup> *The Health and Personal Social Services (Northern Ireland) Order 1972*<sup>M126</sup>

**Textual Amendments**

**F257** Sch. 5 Pt. II: entry repealed (N.I.) (2.4.2001) by 2001 c. 3 (N.I.), s. 60, **Sch. 5**; S.R. 2001/128, art. 2(4), **Sch.**

**Marginal Citations**

**M126** S.I. 1972/1265 (N.I. 14).

In paragraph 4 of Schedule 11 Part I, for the words “Supreme Court” substitute the words “Court of Appeal”.]

“division” means a county court division within the meaning of the County Courts Act (Northern Ireland) 1959;

“the Juries Officer” in relation to a division means such officer of the Northern Ireland Court Service as the Lord Chancellor may designate to be the Juries Officer for that division.



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In Article 4(2) for the words from the beginning to “area who” substitute the words “The Chief Electoral Officer shall arrange to be sent to the Juries Officer for each division a list of those Persons selected who reside in the division and the Juries Officer”.

In Article 4(3)(b), (6) (where it first occurs) and 9(c) and Article 5(3) for the word “area” substitute the word “division”.

In Article 4(4) and (5) for the words “Area Provisional Jurors List” substitute the words “list referred to in paragraph (2)”.

In Articles 4(5), (6) and (7) and 5(3) and (4) for the word “Area” wherever it occurs substitute the word “Divisional”.

In Schedule 2—

- (a) at the end of the entry relating to officers of the Northern Ireland Office add the words “and officers of the Lord Chancellor’s Office certified by the Lord Chancellor to be so engaged”.
- (b) after that entry insert—  
“Members of the Northern Ireland Court Service.”;
- (c) after the entry relating to members and staff of the Police Authority for Northern Ireland insert—  
“Members and staff of the Police Complaints Board for Northern Ireland”;
- (d) after the entry relating to persons in the Northern Ireland Civil Service insert—  
“The Chief Electoral Officer for Northern Ireland and persons appointed to assist him.”

...

*The Treatment of Offenders (Northern Ireland) Order 1976*<sup>M127</sup>

**Marginal Citations**

**M127** S.I. 1976/226 (N.I. 4).

In Articles <sup>F259</sup> . . . , 5(3)(a), <sup>F259</sup> . . . <sup>F259</sup> . . . <sup>F259</sup> . . . <sup>F259</sup> . . . for the words “a court of assize or county court” wherever they occur substitute the words “the Crown Court”.

**Textual Amendments**

**F259** Sch. 5 Pt. II: entries relating to arts. 2, 9, 10, 14 and 15 of the Treatment of Offenders (Northern Ireland) Order 1976 repealed (1.1.1998) by S.I. 1996/3160, art. 58(3), **Sch. 7**

In Article 3(4) for the words “a court of assize or county court” substitute the words “the Crown Court”.

In Article 3(5) for the words “a court under paragraph (4), that court” substitute the words “under paragraph (4), the Crown Court”.

In Article 5(1)(b) for the words “or county borough” substitute the words “court division”.

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In Article 5(3)(b) for the words “the court referred to in sub-paragraph (a)” substitute the words “the Crown Court”.

In Article 5(4) for the words “such court of assize or county court as it considers convenient” substitute the words “the Crown Court”.

In Articles 9(3)(b), 9(4), 10(2) and 10(3) for the words “the court of assize or county court, as the case may be” wherever they occur substitute the words “the Crown Court”.

In Article 9(4) for the words “that court of assize or county court” substitute the words “the Crown Court”. <sup>F260</sup> . . .

#### Textual Amendments

**F260** Entry relating to Treatment of Offenders (Northern Ireland) Order 1976, art. 14 repealed by [S.I. 1989/1344 \(N.I. 15\)](#), art. 14(2), [Sch. 2](#)

In Article 15(3) for the words “the court of assize or county court” substitute the words “the Crown Court” and for the words “the court of assize or county court, as the case may be” substitute the words “that court”.

#### *The Solicitors (Northern Ireland) Order 1976* <sup>M128</sup>

#### Marginal Citations

**M128** [S.I. 1976/582 \(N.I. 12\)](#).

<sup>F261</sup> . . .

#### Textual Amendments

**F261** Entry relating to Solicitors (Northern Ireland) Order 1976, articles 15(1), 37(2), 64(1)(a) and 64(2) repealed by [S.I. 1989/1343 \(N.I. 14\)](#), art. 27(3), [Sch. 4](#)

In Article 75(3) for the words “section 7 of the Northern Ireland Act 1962” substitute “section 55 of the Judicature (Northern Ireland) Act 1978”.

In Article 81(a) for the words “the Court of Criminal Appeal” substitute the words “the Crown Court”.

#### *The Sexual Offences (Northern Ireland) Order 1978* <sup>M129</sup>

#### Marginal Citations

**M129** [S.I. 1978/460 \(N.I. 5\)](#).

In Articles 6(2) and 8(3) for the words “county court or the High Court” substitute the words “Crown Court”.

In Articles 6(4) and 7(2) for the words “Court of Criminal Appeal” wherever they occur substitute the words “Court of Appeal”.

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## SCHEDULE 6

Section 122(1).

### TRANSITIONAL PROVISIONS

#### PART I

#### GENERAL

- 1 (1) Proceedings instituted or being carried on heretofore in a court mentioned in the first column of the Table below or in or before any division, judge, office or officer of any such court may hereafter be continued and determined before the court specified opposite such court in the second column of that Table or in or before the appropriate division, judge, office or officer of that court; and any order, writ, summons, warrant, recognizance, notice, grant of legal aid, process, proceeding or document relating to or affecting such proceedings shall have effect accordingly.
- (2) Nothing in sub-paragraph (1) affects the power of any court mentioned in the second column of the Table below to make any order in the proceedings which it is otherwise authorised to make.

TABLE

<i>First column</i>	<i>Second column</i>
1.The Supreme Court of Judicature of Northern Ireland.	The Supreme Court.
2.Her Majesty’s Court of Appeal in Northern Ireland.	The Court of Appeal.
3.The Court of Criminal Appeal in Northern Ireland.	The Court of Appeal.
4.Her Majesty’s High Court of Justice in Northern Ireland sitting otherwise than as a court of assize.	The High Court.

- 2 Any order or appointment made, direction or authority given or thing done which—
  - (a) was heretofore in force with respect to any property under the control or management of the Lord Chief Justice or the High Court or any division, judge, office or officer thereof; and
  - (b) could have been made, given or done under any provision of this Act if that provision had been in force at the material time;shall continue to have effect as if made, given or done under that provision.
- 3 Every rule of court made or deemed to have been made under section 7 of the <sup>M130</sup>Northern Ireland Act 1962 and not revoked before the commencement of section 55 shall have effect as if made under that section and may be varied or revoked accordingly.

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#### Marginal Citations

M130 1962 c. 32.

- 4 General orders made by the Lord Chief Justice under section 118 of the <sup>M131</sup>Lunacy Regulation (Ireland) Act 1871 which were in force immediately before the commencement of section 28 shall be deemed to be rules of court and shall continue in force until amended or revoked by such rules.

#### Marginal Citations

M131 1871 c. 22.

- 5 All forms and methods of civil and criminal procedure and practice which were heretofore in force in the High Court of Justice in Northern Ireland, the Court of Appeal in Northern Ireland or the Court of Criminal Appeal, and which are not inconsistent with this Act or with the rules of court, may continue to be used in the High Court and the Court of Appeal in the cases and for the purposes in and for which they were used heretofore but with such modifications as may appear necessary in consequence of this Act.
- 6 Until the coming into force of section 69(1)—
- (a) <sup>F262</sup> .....
  - (b) any person heretofore holding office or serving in or in connection with—
    - (i) a court mentioned in the first column of the Table mentioned in paragraph 1 shall except as provided by Part VI of this Act or Part III of this Schedule, continue in corresponding office or service in or in connection with the court specified opposite that court in the second column of that Table as if he had been appointed under sub-paragraph (a) upon the terms and conditions on which he heretofore held office or served;
    - (ii) county courts, magistrates' courts, the Enforcement of Judgments Office or coroners' courts shall continue to do so as if he had been appointed under sub-paragraph (a) upon the terms and conditions on which he heretofore held office;
    - (iii) county courts shall be deemed to be an officer of the Crown Court.

#### Textual Amendments

**F262** Sch. 6 para. 6(a) repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 146, 148(1), Sch. 5 para. 40(2), Sch. 18 Pt. 3; S.I. 2006/1014, art. 2(a), Sch. 1 paras. 12(a), 30(c)

- 7 In so far as any instrument made or other thing done under a statutory provision repealed by this Act could have been made or done under a corresponding provision of this Act then it shall on the commencement of the relevant provision of this Act have effect as if done under that provision.
- 8 Until the issue of commissions of the peace by virtue of section 103 any person authorised to act as a justice of the peace in any county or county borough which includes the whole or any part of a county court division shall be deemed to be a

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justice of the peace duly appointed to a commission issued for that division under that section.

- 9 Until an order under section 68(3) comes into force in relation to any place in which heretofore there was established a district probate registry, that registry shall continue in existence and—
- (a) shall be deemed to be a branch office of the Probate and Matrimonial Office;
  - (b) may transact such of the business of that Office as may be specified in directions given by the Lord Chancellor [<sup>F263</sup>after consultation with the Lord Chief Justice]; and
  - (c) may be placed under the supervision of a circuit registrar.

**Textual Amendments**

**F263** Words in Sch. 6 para. 9(b) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 40(3); S.I. 2006/1014, {art. 2(a), Sch. 1 para. 12(a)}

- [<sup>F264</sup>9A The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph 9—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

**Textual Amendments**

**F264** Sch. 6 para. 9A inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 40(4); S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(a)

- 10 This Part and Parts II and III of this Schedule apply subject to the express provisions of this Act.

**PART II**

THE CROWN COURT

- 11 (1) For the purpose of enabling indictable proceedings instituted before the commencement of Part IV of this Act to be continued thereafter, and for preserving in other respects the continuity of the administration of justice, the Crown Court shall be treated as succeeding to, and being the same court as, all courts of assize and county courts when exercising jurisdiction in or in relation to such proceedings.
- (2) Any order, writ, summons, warrant, recognizance, notice, grant of legal aid or other proceeding or document shall have effect in accordance with sub-paragraph (1) and shall be construed, unless the context otherwise requires, in accordance with the Table in paragraph 2 of Part I of Schedule 5.
- (3) <sup>F265</sup> .....

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#### Textual Amendments

**F265** Sch. 6 para. 11(3) repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 146, 148(1), Sch. 5 para. 40(5), Sch. 18 Pt. 3; S.I. 2006/1014, art. 2(a), Sch. 1 paras. 12(a), 30(c)

- 12 Any indictable proceeding the hearing of which has begun but is not completed before the commencement of Part IV of this Act before a court of assize or county court shall be continued and disposed of as if this Act had not been passed.
- 13 Nothing in this Act shall affect any order made before the commencement of Part IV of this Act for the payment of costs under the <sup>M132</sup>Costs in Criminal Cases Act (Northern Ireland) 1968, and any such costs shall be taxable and recoverable as if this Act had not been passed.

#### Marginal Citations

**M132** 1968 c. 10 (N.I.)

- 14 **F266** .....

#### Textual Amendments

**F266** Sch. 6 para. 14 repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 146, 148(1), Sch. 5 para. 40(5), Sch. 18 Pt. 3; S.I. 2006/1014, art. 2(a), Sch. 1 paras. 12(a), 30(c)

- 15 (1) Subject to any provision made by rules of court, and to sub-paragraph (2) below—
- (a) any civil proceedings (including civil bill appeals) which had been begun in a court of assize before the commencement of Part IV of this Act may be continued thereafter in the High Court as if they had been begun in the High Court, and
  - (b) any act, judgment or order in civil proceedings in a court of assize shall be treated as having been done, given or made in accordance with the rules applicable to proceedings in the High Court, other than in a court of assize.
- (2) Any civil proceedings in a court of assize the hearing of which has begun but is not completed before the commencement of Part IV of this Act shall be continued and disposed of as if this Act had not been passed.
- 16 (1) The Lord Chief Justice may, if it appears to him expedient, give directions as to the conduct of any civil proceedings begun in a court of assize or any indictable proceedings instituted before the commencement of Part IV of this Act if in his opinion the direction is required to meet any difficulty arising from the commencement of that Part.
- (2) The preceding provisions of this Part shall have effect subject to any direction under this paragraph.
  - (3) A direction under this paragraph may relate either to a specified proceeding, or to proceedings of a specified class or description.

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**PART III**

STATUTORY OFFICERS

17 F267 .....

**Textual Amendments**

**F267** Sch. 6 para. 17 repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 146, 148(1), Sch. 5 para. 40(5), **Sch. 18 Pt. 3**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 12(a), 30(c)

18 Notwithstanding the provisions of section 70(2), a person who heretofore held any office in the Supreme Court shall be qualified for appointment to any office listed in column 1 of Schedule 3.

SCHEDULE 7

Section 122(2)

REPEALS

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

**C38** The text of ss. 98, 99, 100, Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**PART I**

ACTS OF THE PARLIAMENT OF ENGLAND,  
GREAT BRITAIN AND THE UNITED KINGDOM

Chapter	Short Title	Extent of Repeal
4 Edw. 3. (1330).	The Statute made at Westminster in the Fourth Year of the Reign of King Edward the Third after the Conquest.	Chapter II as it applies to Northern Ireland.
39 & 40 Geo. 3. c. 67.	The Union with Ireland Act 1800.	In Article VIII of the Treaty of Union as set out in section 1 the words from “that from” to “Court of Chancery in Ireland; and”.
41 Geo. 3. c. 88.	The Judges’ Lodgings (Ireland) Act 1801.	The whole Act.
44 Geo. 3. c. 102.	The Habeas Corpus Act 1804.	In section 1 as it applies to Northern Ireland the words

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		from “or any justice of oyer” to “baron as aforesaid” and the words “or any sitting of nisi prius”.
50 Geo. 3. c. 102.	The Unlawful Oaths (Ireland) Act 1810.	Sections 8 and 9.
55 Geo. 3. c. 157.	The Evidence (Ireland) Act 1815.	The whole Act.
57 Geo. 3. c. 56.	The Recognizances (Ireland) Act 1817.	The whole Act.
60 Geo. 3. & 1 Geo. 4. c. 4.	The Pleading in Misdemeanor Act 1819.	The whole Act as it applies to Northern Ireland.
1 Geo. 4. c. 5.	The Transfer of Stock (Ireland) Act 1820.	The whole Act.
1 & 2 Geo. 4. c. 36.	The Public Notaries (Ireland) Act 1821.	The whole Act.
1 & 2 Geo. 4. c. 53.	The Common Law Procedure (Ireland) Act 1821.	The whole Act.
1 & 2 Geo. 4. c. 54.	The Clerk of Assize (Ireland) Act 1821.	The whole Act.
4 Geo. 4. c. 61.	The Court of Chancery (Ireland) Act 1823.	The whole Act.
4 Geo. 4. c. 89.	The Law Costs (Ireland) Act 1823.	The whole Act.
5 Geo. 4. c. 111.	The Crown Debts Act 1824.	The whole Act as it applies to Northern Ireland.
6 Geo. 4. c. 51.	The Assizes (Ireland) Act 1825.	The whole Act.
9 Geo. 4. c. 54.	The Criminal Law (Ireland) Act 1828.	Sections 22, 26, 27 and 34.
11 Geo. 4 & 1 Will. 4. c. 65.	The Infants Property Act 1830.	In section 14 as it applies to Northern Ireland the words “and lord chancellor intrusted as aforesaid, respectively”.
2 & 3 Will. 4. c. 48.	The Clerk of the Crown (Ireland) Act 1832.	The whole Act.
4 & 5 Will. 4. c. 78.	The Chancery (Ireland) Act 1834.	The whole Act.
5 & 6 Will. 4. c. 16.	The Chancery (Ireland) Act 1835.	The whole Act.
5 & 6 Will. 4. c. 26.	The Assizes (Ireland) Act 1835.	The whole Act.



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5 & 6 Will. 4. c. 55.	The Sheriffs (Ireland) Act 1835.	Sections 6, 11 to 17, 23, 24 and 39 to 41.
6 & 7 Will. 4. c. 74.	The Court of Chancery (Ireland) Act 1836.	The whole Act.
1 & 2 Vict. c. 56.	The Poor Relief (Ireland) Act 1838.	Sections 114 to 116.
3 & 4 Vict c. 105.	The Debtors (Ireland) Act 1840.	The whole Act.
3 & 4 Vict. c. 108.	The Municipal Corporations (Ireland) Act 1840.	Sections 22, 51, 130 and 139.
3 & 4 Vict. c. 109.	The Counties and Boroughs (Ireland) Act 1840.	In section 1, the words from “and shall” to “common boundary” and the words from “Provided also,” to the end.
5 & 6 Vict c. 69.	The Perpetuation of Testimony Act 1842.	The whole Act as it applies to Northern Ireland.
5 & 6 Vict c. 94.	The Defence Act 1842.	Section 29 as it applies to Northern Ireland.
5 & 6 Vict. c. 97.	The Limitation of Actions and Costs Act 1842.	The whole Act as it applies to Northern Ireland.
6 & 7 Vict. c. 85.	The Evidence Act 1843.	Section 2 as it applies to Northern Ireland.
6 & 7 Vict. c. 98.	The Slave Trade Act 1843.	In section 4 as it applies to Northern Ireland the words from “or information” to “Queen’s Bench”, the words “or informations respectively” and the words “in Her Majesty’s said Court of Queen’s Bench”.
7 & 8 Vict. c. 107.	The Common Law Offices (Ireland) Act 1844.	The whole Act.
8 & 9 Vict. c. 115.	The Chancery Taxing Master (Ireland) Act 1845.	The whole Act.
11 & 12 Vict. c. 132.	The Taxing Masters (Ireland) Act 1848.	The whole Act.
12 & 13 Vict. c. 105.	The Renewable Leasehold Conversion Act 1949.	Section 21.
13 & 14 Vict. c. 73.	The Attachment of Goods (Ireland) Act 1850.	The whole Act.
14 & 15 Vict. c. 20.	The Fee-Farm Rents (Ireland) Act 1851.	In section 1, the words from “and save and except” to the end of the section.

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14 & 15 Vict. c. 70.	The Railways Act (Ireland) 1851.	Section 25.
14 & 15 Vict. c. 90.	The Fines Act (Ireland) 1851.	In section 2 the words from “And in order” to the end.  In section 4, from the beginning of paragraph 4 to the end of the section.  Section 9.
14 & 15 Vict. c. 99.	The Evidence Act 1851.	Section 6 as it applies to Northern Ireland.
14 & 15 Vict. c. 100.	The Criminal Procedure Act 1851.	Section 27 as it applies to Northern Ireland.
15 & 16 Vict. c. 55.	The Trustee Act 1852.	Sections 10 and 11 as they apply to Northern Ireland.
16 & 17 Vict. c. 113.	The Common Law Procedure Amendment Act (Ireland) 1853.	The whole Act.
17 & 18 Vict. c. 34.	The Attendance of Witnesses Act 1854.	The whole Act so far as it authorises the issue of procees by the High Court.
17 & 18 Vict. c. 38.	The Gaming Houses Act 1854.	Section 12 as it applies to Northern Ireland.
17 & 18 Vict. c. 94.	The Public Revenue and Consolidated Fund Charges Act 1854.	In Schedule B the entries relating to the salaries of registrars to the judges, Ireland and to lodging money for judges at assizes (Ireland).
19 & 20 Vict. c. 77.	The Chancery Recievers (Ireland) Act 1856.	The whole Act.
19 & 20 Vict. c. 92.	The Chancery Appeal Court (Ireland) Act 1856.	The whole Act.
19 & 20 Vict. c. 102.	The Common Law Procedure Amendment Act (Ireland) 1856.	The whole Act.
20 & 21 Vict. c. 60.	The Irish Bankrupt and Insolvent Act 1857.	Sections 11, 23, 25, 26, 28, 29, 36, 41, 49, 51, 52, 78, 86, 366, 367 and 369.  In section 370 in the paragraph beginning “Fourth” the words from “before a notary” to “in England”.  Sections 372 to 375.

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20 & 21 Vict. c. 79.	The Probates and Letters of Administration Act (Ireland) 1857.	Sections 6, 16 to 18, 23 to 29, 32, 34, 36, 41, 69, 109, 114 and 115. Schedule A.
21 & 22 Vict. c. 27.	The Chancery Amendment Act 1858.	The whole Act as it applies to Northern Ireland.
21 & 22 Vict. c. 72.	The Landed Estates Court (Ireland) Act 1858.	Sections 37, 40, 55, 65, 74, 75, 77, 78, 86 and 89. Schedule A.
22 & 23 Vict. c. 21.	The Queen's Remembrancer Act 1859.	Section 15 as it applies to Northern Ireland.
22 & 23 Vict.c. 31.	The Court of Probate Act (Ireland) 1859.	Sections 1, 3, 4, 9, 20 and 31.
23 & 24 Vict. c. 38.	The Law of Property Amendment Act 1860.	Section 10 as it applies to Northern Ireland.
23 & 24 Vict. c. 97.	The Railways Act (Ireland) 1860.	Section 3.  In section 4 the words from "and the money so deposited" to "accummulated". Section 7.
23 & 24 Vict. c. 154.	The Landlord and Tenant Law Amendment Act Ireland 1860.	Sections 70 and 71.
27 & 28 Vict. c. 7.	The Bills of Exchange (Ireland) Act 1864.	The whole Act.
30 & 31 Vict. c. 44.	The Chancery (Ireland) Act 1867.	The whole Act.
30 & 31 Vict. c. 114.	The Court of Admiralty (Ireland) Act 1867.	The whole Act.
30 & 31 Vict. c. 129.	The Chancery and Common Law Offices (Ireland) Act 1867.	The whole Act.
31 & 32 Vict. c. 20.	The Legitimacy Declaration Act (Ireland) 1868.	Sections 3, 4, 5 and 7.
31 & 32 Vict. c. 70.	The Railways Traverse Act 1868.	The whole Act as it applies to Northern Ireland.
31 & 32 Vict. c. 125.	The Parliamentary Elections Act 1868.	The whole Act as it applies to Northern Ireland.
33 & 34 Vict. c. 110.	The Matrimonial Causes and Marriage Law (Ireland) Amendment Act 1870.	Sections 8, 10, 11, 12, 14 to 17, 23, 28 and 29.

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34 & 35 Vict. c. 22.	The Lunacy Regulation (Ireland) Act 1871.	<p>In section 2 the definition of “the registrar”.</p> <p>Section 16.</p> <p>In section 17 the words from “or where the judge” to “required”.</p> <p>Section 24.</p> <p>In section 41 the words “and the Bank of Ireland”.</p> <p>In section 49, the words “and the Bank of Ireland” and the words from “in the same manner” to “entered in the Court of Chancery”.</p>
		<p>Section 55(6).</p> <p>In section 105 the words from “provided” to the end.</p> <p>Section 108.</p> <p>In section 110 the words “of the Court of Chancery” where last occurring.</p> <p>Section 112.</p> <p>In section 114 the words from “and also” where first occurring to “Ireland”.</p> <p>In section 118 the words from “and, so far” to the end.</p>
34 & 35 Vict. c. 49.	The Matrimonial Causes and Marriage Law (Ireland) Amendment Act 1871.	Sections 3, 9, 11 to 14 and 20.
34 & 35 Vict. c. 65.	The Juries Act (Ireland) 1871.	<p>In section 3 the definitions of “court” and “judge”.</p> <p>In section 18 the words “at any general sessions of the peace” and the words “and in respect of the panels for the assizes, in the office of the returning officer in Dublin”.</p> <p>Sections 32, 48 and 51.</p>
35 & 36 Vict. c. 58.	The Bankruptcy (Ireland) Amendment Act 1872.	Sections 8, 10, 11 and 13 to 16.
35 & 36 Vict. c. 75.	The Commissioners for Oaths (Ireland) Act 1872.	The whole Act.

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39 & 40 Vict. c. 28.	The Court of Admiralty (Ireland) Amendment Act 1876.	The whole Act.
40 & 41 Vict. c. 11.	The Jurisdiction in Rating Act 1877.	In section 3 the words from “As to Ireland” to “Dublin; and”.
40 & 41 Vict. c. 18.	The Settled Estates Act 1877.	Section 42 as it applies to Northern Ireland.
40 & 41 Vict. c. 56.	The County Officers and Courts (Ireland) Act 1877.	The whole Act.
40 & 41 Vict. c. 57.	The Supreme Court of Judicature Act (Ireland) 1877.	The whole Act.
41 & 42 Vict. c. 69.	The Petty Sessions Clerks and Fines (Ireland) Act 1878.	Section 9.
42 & 43 Vict. c. 50.	The Bills of Sale (Ireland) Act 1879.	Sections 17 and 21.
42 & 43 Vict. c. 75.	The Parliamentary Elections and Corrupt Practices Act 1879.	The whole Act as it applies to Northern Ireland.
44 & 45 Vict. c. 41.	The Conveyancing Act 1881.	Sections 48(5), 69(3) and (7) and 72(3) and (5) as they apply to Northern Ireland.
45 & 46 Vict. c. 29.	The County Court Amendment (Ireland) Act 1882.	The whole Act.
45 & 46 Vict. c. 38.	The Settled Land Act 1882.	Section 65(3) and (4) as it applies to Northern Ireland.
45 & 46 Vict. c. 61.	The Bills of Exchange Act 1882.	Section 70 as it applies to Northern Ireland.
45 & 46 Vict. c. 70.	The Supreme Court of Judicature (Ireland) Act 1882.	The whole Act.
45 & 46 Vict. c. 72.	The Revenue, Friendly Societies and National Debt Act 1882.	Section 25 as it applies to Northern Ireland.
48 & 49 Vict. c. 73.	The Purchase of land (Ireland) Act 1885.	Section 19.
49 & 50 Vict. c. 27.	The Guardianship of Infants Act 1886.	In section 9 as it applies to Northern Ireland the words from “Any application” to the end.  In section 10 as it applies to Northern Ireland the words

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		from “In Ireland an appeal” to the end.
		Section 11 as it applies to Northern Ireland.
50 & 51 Vict. c. 6.	The Supreme Court of Judicature (Ireland) Act 1887.	The whole Act.
50 & 51 Vict. c. 33.	The Land Law (Ireland) Act 1887.	Section 7.
50 & 51 Vict. c. 57.	The Deeds of Arrangement Act 1887.	Section 18 as it applies to Northern Ireland.
51 & 52 Vict. c. 27.	The Supreme Court of Judicature (Ireland) Amendment Act 1888.	The whole Act.
52 & 53 Vict. c. 48.	The County Court Appeals (Ireland) Act 1889.	The whole Act.
52 & 53 Vict. c. 63.	The Interpretation Act 1889.	In section 13, paragraph (4), (5) and (14) as they apply to Northern Ireland.
53 & 54 Vict. c. 24.	The Deeds of Arrangement Amendment Act 1890.	Section 3 as it applies to Northern Ireland.
59 & 60 Vict. c. 8.	The Life Insurance Companies (Payment into Court) Act 1896.	In section 4 as it applies to Northern Ireland the words “or the Palatine Court, as the case may be”.
60 & 61 Vict. c. 17.	The Supreme Court of Judicature (Ireland) Act 1897.	The whole Act.
60 & 61 Vict. c. 20.	The Quarter Sessions Jurors (Ireland) Act 1897.	The whole Act.
60 & 61 Vict. c. 66.	The Supreme Court of Judicature (Ireland) (No. 2) Act 1897.	The whole Act.
61 & 62 Vict. c. 37.	The Local Government (Ireland) Act 1898.	In section 69 the word “assizes” and the words “justices, general, quarter or petty sessions”.
1 Edw. 7. c. 17.	The Lunacy (Ireland) Act 1901.	The whole Act.
6 & 7 Geo. 5. c. 46.	The Law and Procedure (Emergency Provisions) (Ireland) Act 1916.	The whole Act.
10 & 11 Geo. 5. c. 67.	The Government of Ireland Act 1920.	Sections 38 and 40.

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		In section 4(1) the words from “Provided that” to the end.
		Sections 44, 46 and 50.
		Schedule 7.
10 & 11 Geo. 5. c. 81.	The Administration of Justice Act 1920.	Sections 11 and 12(2) as they apply to Northern Ireland.
13 Geo. 5. Sess. 2. c. 2.	The Irish Free State (Consequential Provisions) Act 1922.	Paragraph 6 of Schedule 1.
16 & 17 Geo. 5. c. 44.	The Supreme Court of Judicature of Northern Ireland Act 1926.	The whole Act.
22 & 23 Geo. 5. c. 11.	The Northern Ireland (Miscellaneous Provisions) Act 1932.	Section 5.
25 & 26 Geo. 5. c. 21.	The Northern Ireland Land Purchase (Winding Up) Act 1935.	Sections 2, 6(3), 7(1)(a), 8 and 9(4).
6 & 7 Geo. 6. c. 2.	The Supreme Court (Northern Ireland) Act 1942.	The whole Act.
8 & 9 Geo. 6. c. 12.	The Northern Ireland (Miscellaneous Provisions) Act 1945.	Section 8.
12, 13 & 14 Geo. 6. c. 68.	The Representation of the People Act 1949.	Section 111(1) and (4) as it applies to Northern Ireland. Section 160 as it applies to Northern Ireland.
14 Geo. 6. c. 27.	The Arbitration Act 1950	Section 42(4).
14 Geo. 6. c. 37.	The Maintenance Orders Act 1950.	Section 13(2).
15 & 16 Geo. 6. & 1 Eliz. 2. c. 12.	The Judicial Offices (Salaries etc.) Act 1952.	Section 4(2).
2 & 3 Eliz. 2. c. 38.	The Supreme Court Officers (Pensions) Act 1954.	Section 4.
3 & 4 Eliz. 2. c. 8.	The Northern Ireland Act 1955.	Section 2.
4 & 5 Eliz. 2. c. 46.	The Administration of Justice Act 1956.	In Part I of Schedule 1, paragraph 2 and in paragraph 3 the words “or the local court” wherever they occur and the words “or (where it has such jurisdiction)

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		the local court” in sub-paragraph (4).
8 & 9 Eliz. 2. c. 65.	The Administration of Justice Act 1960.	Sections 1 to 6, 9, 13, 15, 16, 17(1), (3) and (4) and 18(3) as they apply to Northern Ireland.  In Schedule 2, paragraphs 1 and 3 in Part I and Part II except so much thereof as modifies sections 12 and 14.
10 & 11 Eliz. 2. c. 30.	The Northern Ireland Act 1962.	Sections 1 to 5 and 7 to 11.  Schedule 1.
1965 c. 2.	The Administration of Justice Act 1965.	Sections 30, 32 and 33.
1967 c. 80.	The Criminal Justice Act 1967.	Section 106(3)(d).  In Schedule 4, paragraphs 25 and 27, and in paragraph 26 the words “and also as it applies to Northern Ireland”.
1968 c. 5.	The Administration of Justice Act 1968.	Section 1(1)(d) and (6).
1968 c. 21.	The Criminal Appeal (Northern Ireland) Act 1968.	In section 14(2) the words from “The powers of” to the end.  In section 30(2) the words “of Appeal”.  In section 46(2)(b) the words “of assize or county court” in the second place where they occur.  Section 49(1).  In section 49(3) the words “under section 7(1) of the said Act of 1962 by virtue of subsection (1) of this section”.  In section 50(1) the definitions of “county court”, “the Lord Chief Justice” and “the Supreme Court”.  In section 53(1) the words in brackets.  Section 53(2).



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		Section 54.
		Part I of Schedule 3.
		Schedules 4 and 5.
1968 c. 63.	The Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968.	In section 4(2) the words “a Divisional Court of the Queen’s Bench Division of”.
1969 c. 12.	The Genocide Act 1969.	Section 1(5).
1969 c. 58.	The Administration of Justice Act 1969.	In section 12, as it applies to Northern Ireland, subsection (2)(b) and in subsection (8) the words “or commissioner” and “or paragraph (b)”.
		Section 16(2).
		In Schedule 1 the entry relating to the Northern Ireland Act 1962.
1970 c. 9.	The Taxes Management Act 1970.	In Schedule 4, paragraph 13.
1973 c. 15.	The Administration of Justice Act 1973.	In section 18(2)(b) the words “a divisional court of the Queen’s Bench Division of”.
1973 c. 36.	The Northern Ireland Constitution Act 1973.	In paragraph 2 of Schedule 3 the words “the Court of Criminal Appeal in Northern Ireland”.
1974 c. 6.	The Biological Weapons Act 1974.	Section 2(2).
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part III of Schedule 1 the entry relating to an officer of or attached to the Supreme Court of Northern Ireland.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Part III of Schedule 1 the entry relating to an officer of or attached to the Supreme Court of Northern Ireland.
1975 c.34.	The Evidence (Proceedings in Other Jurisdictions) Act 1975.	In section 4 the words “and High Court of Justice in Northern Ireland”.
1977 c. 38.	The Administration of Justice Act 1977.	In Part III of Schedule 2, paragraph 12.
1978 c. 5.	The Northern Ireland (Emergency Provisions) Act 1978.	Section 34(1).

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## PART II

### ACTS OF THE IRISH PARLIAMENT AND PARLIAMENT OF NORTHERN IRELAND.

10 Chas. 1. Sess. 2 c. 14 (Ir.).	The Demise of the Crown Act (Ireland) 1634.	The whole Act.
10 Chas. 1. Sess. 3 c. 13 (Ir.).	The Forcible Entry Act (Ireland) 1634.	Section 3.
10 Chas. 1. Sess. 3 c. 18 (Ir.).	The Oaths Act (Ireland) 1634.	The whole Act.
7 Will. 3. c. 12. (Ir.).	The Statute of Frauds (Ireland) 1695.	Sections 10, 11 and 14.
7 Will. 3. c. 13. (Ir.).	The Sheriffs Act (Ireland) 1695.	The whole Act.
1 Geo. 2. c. 8. (Ir.).	The Privilege of Parliament Act (Ireland) 1727.	In section 1 the words from “at Dublin” to “courts of appeal”.
9 Geo. 2. c. 7. (Ir.).	The Land Improvement Act (Ireland) 1735.	Un section 1 the words from “in the manner following” to the end of the section.
19 Geo. 2. c. 12 (Ir.).	An Act for the better regulating of Corporations.	The whole Act.
1 Geo. 3. c. 17. (Ir.).	The Expiring Laws Act (Ireland) 1761.	Section 10.
3 Geo. 3. c. 28. (Ir.).	The Criminal Justice Act (Ireland) 1763.	The whole Act.
11 & 12 Geo. 3. c. 34 (Ir.).	The Criminal Justice (Venue) Act (Ireland) 1771.	The whole Act.
21 & 22 Geo. 3. c. 11 (Ir.).	The Habeas Corpus Act (Ireland) 1781.	Sections 6, 9, 11 and 12.
21 & 22 Geo. 3. c. 51 (Ir.).	The Criminal Justice (Venue) Act (Ireland) 1781.	The whole Act.
25 Geo. 3. c. 36 (Ir.).	The Sheriffs Act (Ireland) 1785.	Sections 2 to 4.
36 Geo. 3. c. 26 (Ir.).	The Judges Salaries Act (Ireland) 1796.	The whole Act.
38 Geo. 3. c. 2 (Ir.).	The Quo Warranto Act (Ireland) 1798.	The whole Act.
40 Geo. 3. c. 38 (Ir.).	The Act of Union (Ireland) 1800.	In Article VIII of the Treaty of Union as set out in section 1 the words from “that from” to “chancery in Ireland; and”.

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40 Geo. 3. c. 69 (Ir.).	The Judicial Salaries and Pensions Act (Ireland) 1800	The whole Act.
14 — 15 Geo. 5. c. 21 (N.I.).	The Industrial Assurance Act (Northern Ireland) 1924.	Section 7(1)(c).
14 — 15 Geo. 5. c. 27 (N.I.).	The Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924.	In section 9(2) the words from “whether” to the end.
16 — 17 Geo. 5. c. 15 (N.I.).	The Jury Laws Amendment Act (Northern Ireland) Act 1926.	In section 14(1) the words “or section forty-eight” and the words “or under section nine of the Petty Sessions Clerks and Fines (Ireland) Act 1878”. Section 14(2).
20 Geo. 5. c. 1 (N.I.).	The Bankruptcy Amendment Act (Northern Ireland) 1929.	In section 21(10) the words from ““the court”” to “1897”.  In section 28(1) in the definition of “Official Assignee” the words from “as amended” to the end.
21 — 22 Geo. 5. c. 12 (N.I.).	The Planning and Housing Act (Northern Ireland) 1931.	Section 47(1).
21 — 22 Geo. 5. c. 14 (N.I.).	The Wild Birds Protection Act (Northern Ireland) 1931.	Section 14(2).
23 — 24 Geo. 5. c. 16 (N.I.).	The Probates and Letters of Administration Act (Northern Ireland) 1933.	Section 3.
1 Edw. 8 — 1 Geo. 6. c. 9 (N.I.).	The Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937.	Section 18.
2 — 3 Geo. 6. c. 12 (N.I.).	The Evidence Act (Northern Ireland) 1939.	In section 6(1) the definition of “rules of court”.
4 — 5 Geo. 6. c. 9.	The Prevention of Fraud (Investments) Act (Northern Ireland) 1940.	Section 4(3).
1945 c. 15 (N.I.).	The Criminal Justice Act (Northern Ireland) 1945.	In section 7(1) the words “county or” wherever they occur and the words from “Provided that” to the end.  In sections 30(1) and 33(4) the word “Criminal” wherever it occurs after “of”.
1945 c. 16 (N.I.).	The Indictments Act (Northern Ireland) 1945.	As from such date as is referred to in section 52(2) of

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1954 c. 9 (N.I.).	The Administration of Justice Act (Northern Ireland) 1954.	<p>this Act, sections 1 and 2 and in section 7 the words “or the rules made thereunder”.</p> <p>Section 12.</p> <p>In section 13(1) and (2) the words “(whether in the same or another county)”.</p> <p>Section 13(6).</p> <p>In section 16(1) the word “(Ulster)”.</p> <p>Section 16(2).</p> <p>Section 17.</p> <p>Section 22.</p> <p>Section 24.</p> <p>Section 26.</p> <p>Section 29.</p>
1954 c. 33 (N.I.).	The Interpretation Act (Northern Ireland) 1954.	<p>In section 21—</p> <p>(a) in subsection (1) the word “fees” ;</p> <p>(b) in subsection (2), paragraph (b) ;</p> <p>(c) in subsection (6) in paragraph (a) the words “or the Court of Criminal Appeal” and in paragraph (b) the words “and to courts of quarter sessions”.</p> <p>In section 42(1) the definition of “court of quarter sessions”.</p> <p>In section 42(2) the words “a court of quarter sessions”, the words “court of quarter sessions” wherever they occur and the words “or court of quarter sessions”.</p> <p>In section 42(3) in the definition of “county court judge” the words “a chairman of a court of quarter sessions, and” and the words from “holding” to the end.</p>

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		In section 42(4) the definition of “assizes”.
		In section 46(1) in the definition of “Lands Clauses Acts” the words “, the Railways Traverse Act, 1868”.
1959 c. 15 (N.I.).	The Coroners Act (Northern Ireland) 1959.	Section 4.
		In section 40 the definitions of “appointed day”, “council”, “county”, “maintenance and equipment”, “Ministry” and “Minister”.
1959 c. 25 (N.I.).	The County Courts Act (Northern Ireland) 1959.	In section 3(1) the words “by the Ministry”.
		Section 3(2).
		Section 6(2)(b) and (c).
		Section 7.
		In section 10(4) the words from “Except” to “1956”.
		Section 14.
		In section 16 the words “Chancery Division of the”.
		In section 21(2) the words “to proceedings in any Admiralty cause or matter, or”.
		Sections 39 to 42.
		Section 45.
		Section 50.
		In section 71(1)(b) the words in brackets.
		Section 98.
		Section 99(3).
		Sections 100 and 101.
		Sections 108 to 110.
		In section 111(1) the words from the beginning to “1954”.
		Sections 112 and 113.

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Section 115.

Section 116(2) and (3).

Section 118.

Section 137(b) and (c).

Section 138.

In section 145(2) the words  
“or a court of assize”.

Section 146(1).

In section 147(b)(ii) the words “and by leave of the judge of any action in which the sum claimed or the amount involved does not exceed fifty pounds”.

In section 147(b)(iii) the words “Queen’s Bench Division of the”.

Section 147(c) and (e)(ii).

In section 148 the words from “and all order as to fees” to “as to costs or fees” and the words “costs and fees”.

In section 150 the words  
“Chancery Division of the”.

In section 152(1) the definitions of “Minister” and “Ministry” and in the definition of “prescribed” the words “or by regulations made under subsection (10) of section one hundred and eight,”.

Section 154(2).

Schedules 1 and 3.

Section 349(7).

1960 c. 22 (N.I.).

The Companies Act  
(Northern Ireland) 1960.

1961 c. 15 (N.I.).

The Mental Health Act  
(Northern Ireland) 1961.

In section 113(1) the definitions of “the Department for the Affairs of Mental Patients” and “Lord Chief Justice”.

Section 117.

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1962 c. 14 (N.I.).	The Electoral Law Act (Northern Ireland) 1962.	<p>Section 43(4).</p> <p>Section 72(4).</p> <p>Section 83(5).</p> <p>In Schedule 8, paragraph 3(1) and (3).</p>
1964 c. 3 (N.I.).	The County Courts Appeals Act (Northern Ireland) 1964.	<p>In section 2(1) the words from “made otherwise than” to “Act of 1959”.</p> <p>In section 3(1) the words “judge of assize or”.</p> <p>Section 5(a)(ii).</p> <p>Section 6.</p> <p>In Schedule 1 the amendment to the Town Tenants Act (Ireland) Act 1906.</p>
1964 c. 13 (N.I.).	The Agricultural Marketing Act (Northern Ireland) 1964.	Section 13(6)(b).
1964 c. 21 (N.I.).	The Magistrates’ Courts Act (Northern Ireland) 1964.	<p>Sections 4 and 5.</p> <p>In section 7 the words from “so, however, that” to the end.</p> <p>Section 8.</p> <p>In section 13(2) the words “, subject to section 3(4),”.</p> <p>Section 14(2).</p> <p>In section 22 the words “by the Ministry”.</p> <p>In section 23—</p> <p>(a) subsection (3);</p> <p>(b) in subsection (7) the words “or (3)” and “and fees”;</p> <p>(c) subsections (8) and (9).</p> <p>In section 24(a) the word “fees”.</p> <p>In section 25(1) the words “of the Ministry”.</p> <p>Section 25(3).</p>

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		In section 26(1) the words “and fees”.
		Sections 27 to 29.
		Section 32(5).
		Section 47.
		In section 48(1) the words “the crown and peace for the county or county borough in or for which”, the word “sat”, the words “end of the assize or” and the word “county” where it next occurs.
1964 c. 21 (N.I.)— <i>cont.</i>	The Magistrates’ Courts Act (Northern Ireland) 1964— <i>cont.</i>	Section 151.
		In section 152(1)(b) the words from the beginning to “section 151(3)”.
		In section 169(1) the definition of “Minister” and “Ministry”.
		Section 169(3).
		Section 173(2).
		Schedule 1.
		In Schedule 6 the entries relating to the Education Act (Northern Ireland) 1947, the National Assistance Act (Northern Ireland) 1948 and the Road Traffic Act (Northern Ireland) 1955.
1964 c. 30 (N.I.).	The County Courts (Amendment) Act (Northern Ireland) 1964.	In section 1 the words from “in proceedings brought” to “Part V of the principal Act and” and the words from “after section 40(3)” to “and” (where it appears before the words “after section 44(4)”).
		Sections 4 and 5.
1967 c. 18 (N.I.).	The Criminal Law Act (Northern Ireland) 1967.	Section 8.
		In section 12(1) the words “and to subsection (2)”.



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		Section 12(2).
1968 c. 6 (N.I.).	The Insurance Companies Act (Northern Ireland) 1968.	Section 55(2).  So much of Schedule 5 as relates to section 7(1)(c) of the Industrial Assurance Act (Northern Ireland) 1924.
1968 c. 10 (N.I.).	The Costs in Criminal Cases Act (Northern Ireland) 1968.	Section 3(7)(a)(ii).
1968 c. 29 (N.I.).	The Treatment of Offenders Act (Northern Ireland) 1968.	Section 20(2).  In section 20(3)(a) the words from “having power” to “order for detention,” and “by that court of assize or county court”.  Section 20(4).  In section 21(2) the words “(2) or”.  In section 21(3) the words from “having jurisdiction in that place” to the end.
	In section 25(3) the words “as the case may be”.	
		Section 26(1).  In section 29(1) and (4) the word “Criminal” wherever it occurs after “of”.
1968 c. 34 (N.I.).	The Children and Young Persons Act (Northern Ireland) 1968.	In section 178(4) the words “county or county borough which consists of or includes the”.
1969 c. 15 (N.I.)	The Grand Jury (Abolition) Act (Northern Ireland) 1969.	In section 2(2), the words from “or, in the case of” to the end.
		Sections 2(7) and 3(3).
1969 c. 30 (N.I.).	The Judgements (Enforcement) Act (Northern Ireland) 1969.	Sections 5 to 7.  In section 18 the words “fixed by regulations”.  In section 19(1) the words “so fixed”.  Section 30.

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		In section 40(3) the words “and approved by the Minister of Finance”.
		In section 43(4)(a) the words “a judge of”.
		In section 52(1)(b) the words “a judge of” and “judge or”.
		In sections 52(3), 56(2) and 70(2) the words “a judge of”.
		Section 62(c).
		In section 91 the words “a judge of” where they twice occur and the words “judge or”.
		In sections 92(1) and 94 the words “a judge of”.
		In section 113(1) the words “appointed under section 3(2)”.
		In section 114(1) the words “or regulations”.
		In section 116(1) the words “a judge of”.
		Sections 118 and 119.
		In section 129(1)—
		(a) in the definition of “court” the words “a judge of”;
		(b) the definitions of “the Minister”, “the Ministry” and “regulations”.
		Section 133(2).
		In Schedule 4, Part II, the entry relating to section 70 of the Landlord and Tenant Law Amendment Act Ireland 1860.
1970 c. 2 (N.I.).	The Road Traffic Act (Northern Ireland) 1970.	Section 87(2).
1971 c. 30 (N.I.).	The Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971	In section 9(2) the words “a judge of”.
		Section 13(1).
		Section 14.

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		In section 17(1) and (2) the words “subject to subsection (3)”.
		Section 17(3).
1971 c. 36 (N.I.).	The Civil Evidence Act (Northern Ireland) 1971.	Section 5(6).
1972 c. 6 (N.I.).	The Evidence of Alibi Act (Northern Ireland) 1972.	Section 1(1)(b).

### PART III

#### ORDERS IN COUNCIL

Year and Number	Short Title	Extent of Repeal
S.R. — O. 1921/1802.	The Supreme Court of Judicature (Northern Ireland) Order 1921.	Articles 3 and 5 to 9.
S.R. — O. 1922/79.	The Government of Ireland (Supreme Court Matters, etc.) Order 1922.	Articles 5, 6(a), (b) and (d) and 7 to 11.
S.R. — O. 1927/342.	The Supreme Court of Judicature (Northern Ireland) Order 1927.	The whole Order.
S.I. 1971/875.	The Northern Ireland (Remittal and Removal of Proceedings) Order 1971.	The whole Order.
S.I. 1972/965 (N.I. 5).	The County Courts (Additional Sittings) (Northern Ireland) Order 1972.	The whole Order.
S.I. 1973/2163.	The Northern Ireland (Modification of Enactments —No.1) Order 1973.	Article 6(2), (4) and (6)(b).
		Article 14(4) and (5).
		In Schedule 1 the entries relating to the Fines (Ireland) Act 1851, the Coroners Act (Northern Ireland) 1959, the County Courts Act (Northern Ireland) 1959, the Magistrates’ Courts Act (Northern Ireland) 1964, Schedule 2 to the Children and Young Persons Act (Northern Ireland) 1968 and the Judgements

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		(Enforcement) Act (Northern Ireland) 1969.
S.I. 1973/2163.— <i>cont.</i>	The Northern Ireland (Modification of Enactments—No.1) Order 1973— <i>cont.</i>	<p>In Schedule 2 the entries relating to the Coroners Act (Northern Ireland) 1959, the County Courts Act (Northern Ireland) 1959, the Magistrates’ Courts Act (Northern Ireland) 1964, and the Children and Young Persons Act (Northern Ireland) 1968.</p> <p>In Schedule 3 the entries relating to the Fines Act (Ireland) 1851 and the County Courts Act (Northern Ireland) 1959.</p> <p>In Schedule 4 the entries relating to the County Courts Act (Northern Ireland) 1959 and the Judgements (Enforcement) Act (Northern Ireland) 1969.</p> <p>In Schedule 5 paragraphs 1, 6, 9, 25, 28, 38(d) and (e), 43, 44, 49, 57(d) and 60.</p>
S.I. 1974/2143 (N.I. 6).	The Juries (Northern Ireland) Order 1974.	<p>In Article 2(2) in the definition of “jury service” the words “under-sheriff” and the words “or any division thereof”.</p> <p>In Schedule 4, paragraph 6.</p>
S.I. 1975/816 (N.I. 7).	The Administration of Justice (Northern Ireland) Order 1975.	<p>Article 2(2)(b).</p> <p>Articles 3 to 7, 9, 11 and 13.</p> <p>Schedule 2.</p>
S.I. 1975/1503 (N.I. 15).	The Social Securities Pensions (Northern Ireland) Order 1975.	In Schedule 5, paragraph 4.
S.I. 1976/226 (N.I. 4).	The Treatment of Offenders (Northern Ireland) Order 1976.	Article 3(6).
S.I. 1976/582 (N.I. 12).	The Solicitors (Northern Ireland) Order 1976.	In Articles 15(1) and 37(2) the words “or any court, division or judge thereof”.

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S.I. 1977/1251 (N.I. 18).	The Fatal Accidents (Northern Ireland) Order 1977.	Article 78(5). Articles 79 and 80. In Schedule 1, paragraph 4.
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