



# Judicature (Northern Ireland) Act 1978

## 1978 CHAPTER 23

### 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>M1</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>F1</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

**F1** S. 118(2) repealed by S.I. 1981/233, Sch. 1 Pt. I

#### Marginal Citations

**M1** 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>F2</sup>Statutory Rules (Northern Ireland) Order 1979].

*Status: Point in time view as at 24/07/2006.*

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- (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>M2</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>F3</sup> . . . to give directions includes power to vary or revoke any directions so given.

#### Textual Amendments

- F2** Words substituted by [S.I. 1979/1573 \(N.I. 12\)](#), [Sch. 4 para. 24](#)
- F3** 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

- M2** [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>M3</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>F4</sup>(Northern Ireland) Order 1980];
  - “Criminal Appeal Act” means the <sup>M4</sup>Criminal Appeal (Northern Ireland) [<sup>F5</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;

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“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>F6</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;

“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>F5</sup>section 30 of the <sup>M5</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>M6</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>M7</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

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- (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

- F4** Words substituted by [S.I. 1980/397 \(N.I. 3\)](#), **Sch. 1 Pt II**  
**F5** Words substituted by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), s. 51(1), **Sch. 4 para. 18**  
**F6** Words substituted by [S.I. 1981/1675 \(N.I. 26\)](#), art. 170(2), **Sch. 6 para. 54**

#### Marginal Citations

- M3** 1954 c. 33 (N.I.)  
**M4** 1980 c. 47.  
**M5** 1980 c. 47  
**M6** 1954 c. 33 (N.I.)  
**M7** 1889 c. 63.

### 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>M8</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

- M8** 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

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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.

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

**C1** Power of appointment conferred by s. 123(2) fully exercised: [S.I. 1978/1101](#), 1829; 1979/124, 422

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