



Senior Courts Act 1981

1981 CHAPTER 54

PART III

PRACTICE AND PROCEDURE

THE HIGH COURT

Mode of conducting business

67 Proceedings in court and in chambers.

Business in the High Court shall be heard and disposed of in court except in so far as it may, under this or any other Act, under rules of court or in accordance with the practice of the court, be dealt with in chambers.

68 Exercise of High Court jurisdiction otherwise than by judges of that court.

- (1) Provision may be made by rules of court as to the cases in which jurisdiction of the High Court may be exercised by—
 - (a) such [^{F1}Circuit judges, deputy Circuit judges or Recorders] as the [^{F2}Lord Chief Justice may, after consulting the Lord Chancellor,] from time to time nominate to deal with official referees' business; or
 - (b) special referees; [^{F3}or
 - (c) masters, registrars, district registrars or other officers of the court.]
- (2) Without prejudice to the generality of subsection (1), rules of court may in particular—
 - [^{F4}(a) authorise the whole of any cause or matter, or any question or issue therein, to be tried before any such person as is mentioned in that subsection; or]
 - (b) authorise any question arising in any cause or matter to be referred to [^{F5}a special referee] for inquiry and report.
- (3) Rules of court shall not authorise the exercise of powers of attachment and committal by [^{F6}a special referee or any officer or other staff of the court].

Status: Point in time view as at 25/06/2013.

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- (4) Subject to subsection (5), the decision of
 [F7(a)] any such person as is mentioned in subsection (1) [F8] or
 (b) any officer or other staff of the court]
 may be called in question in such manner as may be prescribed by rules of court, whether by appeal to the Court of Appeal, or by an appeal or application to a divisional court or a judge in court or a judge in chambers, or by an adjournment to a judge in court or a judge in chambers.
- (5) Rules of court may provide either generally or to a limited extent for decisions of [F9] persons] nominated under subsection (1)(a) being called in question only by appeal on a question of law.
- (6) The cases in which jurisdiction of the High Court may be exercised by [F9] persons] nominated under subsection (1)(a) shall be known as “official referees’ business”; and, subject to rules of court, the distribution of official referees’ business among [F10] persons] so nominated shall be determined in accordance with directions given [F11] by the Lord Chief Justice after consulting the Lord Chancellor].
- (7) Any reference to an official referee in any enactment, whenever passed, or in rules of court or any other instrument or document, whenever made, shall, unless the context otherwise requires, be construed as, or (where the context requires) as including a reference to a [F12] person] nominated under subsection (1)(a).
- [F13] (8) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under subsections (1)(a) and (6).]

Textual Amendments

- F1** Words substituted by Administration of Justice Act 1982 (c. 53, SIF 37), s. 59(1)
- F2** Words in s. 68(1)(a) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 4 para. 131(2); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(p)
- F3** S. 68(1)(a) and the preceding word “or” omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, Sch. 2 para. 1(3)(a); S.I. 1999/1009, art. 3(a)
- F4** S. 68(2)(a) omitted (26.4.1999) by virtue of 1997 c. 12, s. 10, Sch. 2 para. 1(3)(b)(i); S.I. 1999/1009, art. 3(a)
- F5** Words in s. 68(2)(b) substituted (26.4.1999) by 1997 c. 12, s. 10, Sch. 2 para. 1(3)(b)(ii); S.I. 1999/1009, art. 3(a)
- F6** Words in s. 68(3) substituted (26.4.1999) by 1997 c. 12, s. 10, Sch. 2 para. 1(3)(c); S.I. 1999/1009, art. 3(a)
- F7** S. 68(4): “(a)” inserted (26.4.1999) by 1997 c. 12, s. 10, Sch. 2 para. 1(3)(d)(i); S.I. 1999/1009, art. 3(a)
- F8** S. 68(4)(b) and the preceding word “or” inserted (26.4.1999) by 1997 c. 12, s. 10, Sch. 2 para. 1(3)(d)(ii); S.I. 1999/1009, art. 3(a)
- F9** Word substituted by Administration of Justice Act 1982 (c. 53, SIF 37), s. 59(2)(a)(i)
- F10** Word substituted by Administration of Justice Act 1982 (c. 53, SIF 37), s. 59(2)(a)(ii)
- F11** Words in s. 68(6) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 4 para. 131(3); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(p)
- F12** Word substituted by Administration of Justice Act 1982 (c. 53, SIF 37), s. 59(2)(b)
- F13** S. 68(8) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 4 para. 131(4); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(p)

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69 Trial by jury.

- (1) Where, on the application of any party to an action to be tried in the Queen’s Bench Division, the court is satisfied that there is in issue—
 - (a) a charge of fraud against that party; or
 - (b) a claim in respect of libel, slander, malicious prosecution or false imprisonment; or
 - (c) any question or issue of a kind prescribed for the purposes of this paragraph, the action shall be tried with a jury, unless the court is of opinion that the trial requires any prolonged examination of documents or accounts or any scientific or local investigation which cannot conveniently be made with a jury [^{F14} or unless the court is of opinion that the trial will involve section 6 proceedings] .
- (2) An application under subsection (1) must be made not later than such time before the trial as may be prescribed.
- (3) An action to be tried in the Queen’s Bench Division which does not by virtue of subsection (1) fall to be tried with a jury shall be tried without a jury unless the court in its discretion orders it to be tried with a jury.
- [^{F15}(3A) An action in the Queen's Bench Division which by virtue of subsection (1) or (3) is being, or is to be, tried with a jury may, at any stage in the proceedings, be tried without a jury if the court concerned—
 - (a) is of opinion that the action involves, or will involve, section 6 proceedings, and
 - (b) in its discretion orders the action to be tried without a jury.
- (3B) Where the court makes an order under subsection (3A)(b), it may make such other orders as it considers appropriate (including an order dismissing the jury).]
- (4) Nothing in subsections (1) to [^{F16} (3B)] shall affect the power of the court to order, in accordance with rules of court, that different questions of fact arising in any action be tried by different modes of trial; and where any such order is made, subsection (1) shall have effect only as respects questions relating to any such charge, claim, question or issue as is mentioned in that subsection.
- (5) Where for the purpose of disposing of any action or other matter which is being tried in the High Court by a judge with a jury it is necessary to ascertain the law of any other country which is applicable to the facts of the case, any question as to the effect of the evidence given with respect to that law shall, instead of being submitted to the jury, be decided by the judge alone.
- [^{F17}(6) In this section “section 6 proceedings” has the meaning given by section 14(1) of the Justice and Security Act 2013 (certain civil proceedings in which closed material applications may be made).]

Textual Amendments

- F14** Words in s. 69(1) inserted (25.6.2013) by Justice and Security Act 2013 (c. 18), s. 20(1), **Sch. 2 para. 8(2)** (with Sch. 3 para. 2); S.I. 2013/1482, art. 2 (with arts. 3, 4)
- F15** S. 69(3A)(3B) inserted (25.6.2013) by Justice and Security Act 2013 (c. 18), s. 20(1), **Sch. 2 para. 8(3)** (with Sch. 3 para. 2); S.I. 2013/1482, art. 2 (with arts. 3, 4)
- F16** Word in s. 69(4) substituted (25.6.2013) by Justice and Security Act 2013 (c. 18), s. 20(1), **Sch. 2 para. 8(4)** (with Sch. 3 para. 2); S.I. 2013/1482, art. 2 (with arts. 3, 4)

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F17 S. 69(6) inserted (25.6.2013) by Justice and Security Act 2013 (c. 18), s. 20(1), **Sch. 2 para. 8(5)** (with Sch. 3 para. 2); S.I. 2013/1482, art. 2 (with arts. 3, 4)

70 Assessors and scientific advisers.

- (1) In any cause or matter before the High Court the court may, if it thinks it expedient to do so, call in the aid of one or more assessors specially qualified, and hear and dispose of the cause or matter wholly or partially with their assistance.
- (2) The remuneration, if any, to be paid to an assessor for his services under subsection (1) in connection with any proceedings shall be determined by the court, and shall form part of the costs of the proceedings.
- (3) Rules of court shall make provision for the appointment of scientific advisers to assist the Patents Court in proceedings under the ^{M1}Patents Act 1949 and the ^{M2}Patents Act 1977 and for regulating the functions of such advisers.
- (4) The remuneration of any such adviser shall be determined by the Lord Chancellor with the concurrence of the Minister for the Civil Service and shall be defrayed out of money provided by Parliament.

Marginal Citations

M1 1949 c. 87.

M2 1977 c. 37.

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