

SEPARATION OF THE LEGAL JURISDICTION OF ENGLAND AND WALES

Introductory

1 New legal jurisdictions of England and of Wales

The legal jurisdiction of England and Wales becomes two separate legal jurisdictions, that of England and that of Wales.

Separation of the law

2 The law extending to England and Wales

- (1) All of the law that extends to England and Wales –
 - (a) except in so far as it applies only in relation to Wales, is to extend to England, and
 - (b) except in so far as it applies only in relation to England, is to extend to Wales.
- (2) In subsection (1) “law” includes –
 - (a) rules and principles of common law and equity,
 - (b) provision made by, or by an instrument made under, an Act of Parliament or an Act or Measure of the National Assembly for Wales, and
 - (c) provision made pursuant to the prerogative.
- (3) Any provision of any enactment or instrument enacted or made, but not in force, when subsection (1) comes into force is to be treated for the purposes of that subsection as part of the law that extends to England and Wales (but this subsection does not affect provision made for its coming into force).

Separation of the Senior Courts

3 Separation of Senior Courts system

- (1) The Senior Courts of England and Wales cease to exist (except for the purposes of section 6) and there are established in place of them –
 - (a) the Senior Courts of England, and
 - (b) the Senior Courts of Wales.
- (2) The Senior Courts of England consist of –
 - (a) the Court of Appeal of England,
 - (b) the High Court of England, and
 - (c) the Crown Court of England,each having the same jurisdiction in England as is exercised by the corresponding court in England and Wales immediately before subsection (1) comes into force.
- (3) The Senior Courts of Wales consist of –
 - (a) the Court of Appeal of Wales,
 - (b) the High Court of Wales, and

- (c) the Crown Court of Wales,
each having the same jurisdiction in Wales as is exercised by the corresponding court in England and Wales immediately before subsection (1) comes into force.
- (4) For the purposes of this Part –
 - (a) Her Majesty’s Court of Appeal in England is the court corresponding to the Court of Appeal of England and the Court of Appeal of Wales,
 - (b) Her Majesty’s High Court of Justice in England is the court corresponding to the High Court of England and the High Court of Wales, and
 - (c) the Crown Court constituted by section 4 of the Courts Act 1971 is the court corresponding to the Crown Court of England and the Crown Court of Wales.
- (5) Subject to section –
 - (a) references in enactments or instruments to the Senior Courts of England and Wales have effect (as the context requires) as references to the Senior Courts of England or the Senior Courts of Wales, or both; and
 - (b) references in enactments or instruments to Her Majesty’s Court of Appeal in England, Her Majesty’s High Court of Justice in England or the Crown Court constituted by section 4 of the Courts Act 1971 (however expressed) have effect (as the context requires) as references to either or both of the courts to which they correspond.

4 The judiciary and court officers

- (1) All of the judges and other officers of Her Majesty’s Court of Appeal in England or Her Majesty’s High Court of Justice in England become judges or officers of both of the courts to which that court corresponds.
- (2) The persons by whom the jurisdiction of the Crown Court constituted by section 4 of the Courts Act 1971 is exercisable become the persons by whom the jurisdiction of both of the courts to which that court corresponds is exercisable; but (despite section 8(2) of the Senior Courts Act 1981) –
 - (a) a justice of the peace assigned to a local justice area in Wales may not by virtue of this subsection exercise the jurisdiction of the Crown Court of England, and
 - (b) a justice of the peace assigned to a local justice area in England may not by virtue of this subsection exercise the jurisdiction of the Crown Court of Wales.

5 Division of business between courts of England and courts of Wales

- (1) The Senior Courts of England, the county courts for districts in England and the justices for local justice areas in England have jurisdiction over matters relating to England; and (subject to the rules of private international law relating to the application of foreign law) the law that they are to apply is the law extending to England.
- (2) The Senior Courts of Wales, the county courts for districts in Wales and the justices for local justice areas in Wales have jurisdiction over matters relating to Wales; and (subject to the rules of private international law relating to the application of foreign law) the law that they are to apply is the law extending to Wales.

6 Transfer of current proceedings

- (1) All proceedings, whether civil or criminal, pending in any of the Senior Courts of England and Wales (including proceedings in which a judgment or order has been given or made but not enforced) shall be transferred by that court to whichever of the courts to which that court corresponds appears appropriate.
- (2) The transferred proceedings are to continue as if the case had originated in, and the previous proceedings had been taken in, that other court.