

THE GOVERNMENT OF IRELAND (SUPREME COURT
MATTERS, &c.) ORDER, 1922.

1922 No. 79

At the Court at Buckingham Palace, the 31st day of January, 1922.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas by section 69 of the Government of Ireland Act, 1920, His Majesty is empowered by Order in Council to make such regulations as seem necessary or proper for setting in motion the Parliaments and Governments of Southern and Northern Ireland, and also for any other matter for which it seems to His Majesty necessary or proper to make provision for the purpose of bringing the said Act into full operation or for giving full effect to any of the provisions of the said Act, and in particular His Majesty is empowered amongst other things, by any such Order in Council—

10 & 11
Geo. 5. c. 67.

- (1) To make such adaptations of any enactments as far as they relate to Ireland as may appear to Him necessary or proper in order to give effect to the provisions of the said Act ; and also to make any adaptations of any enactments so far as they relate to England or Scotland as may appear to Him necessary or proper as a consequence of any change effected by the provisions of the said Act ; and
- (2) To make such adaptation of any enactments as appear to Him necessary or proper with respect to the execution of services with respect to which the Parliaments of Southern Ireland and Northern Ireland have not power to make laws, and in particular to provide for the exercise or performance of any powers or duties in connection with those services by any department of the Government of the United Kingdom or officer of that Government where any such powers or duties are, under any existing Act or by the common law, to be exercised or performed by any department or officer in Ireland who will cease to exist as a department or officer of the Government of the United Kingdom :

And whereas the provisions of section 1 of the Rules Publication Act, 1893, have been complied with :

56 & 57 Vict.
c. 66.

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows :—

PART I

GENERAL

1.—(1) This Order may be cited as the Government of Ireland (Supreme Court Matters, etc.) Order, 1922.

(2) In this Order the expression “appointed day” means for the purposes of Part II of this Order, the first day of October, 1921, and for the purposes of Part III of this Order, the 15th day of December, 1921, and for the purposes of Part IV of this Order, the 22nd day of November, 1921.

52 & 53 Vict.
c. 63.

(3) The Interpretation Act, 1889, applies to the interpretation of this Order in like manner as it applies to the interpretation of an Act of Parliament.

2.—(1) As from the appointed day the enactments to which the several Parts of this Order hereinafter contained apply shall have effect subject to the modifications and adaptations set out in those Parts respectively, save where inconsistent with the Government of Ireland Act, 1920, or the provisions of any subsequent Order in Council under that Act, and subject as respects matters within the powers of the Parliament of Northern Ireland to repeal or alteration by Acts of that Parliament.

(2) Subject to the express modifications and adaptations made by this Order the Supreme Court of Judicature (Southern Ireland) Order, 1921,(a) the Supreme Court of Judicature (Northern Ireland) Order, 1921,(b) and any other Order made under the said Act containing adaptations of general application shall, if and so far as they are applicable to the enactments adapted by this Order, apply thereto in like manner as to other enactments.

(3) The adaptations and modifications effected by this Order shall apply to any order, scheme, rule, regulation or instrument made or issued under any of the enactments so adapted or modified and in force immediately before the appointed day in like manner as they apply to the enactment under which it was made or issued ; and any such order, scheme, rule, regulation or instrument shall continue in force in like manner and subject to the like powers of revocation and alteration as if it had been made or issued under the said enactment as so modified and adapted.

PART II

PROBATE REGISTRIES, &C.

20 & 21 Vict.
c. 79.

3. This Part of this Order applies to the Probates and Letters of Administration Act (Ireland), 1857 (in this Part of this Order referred to as “the Act of 1857”), as amended by any subsequent enactment, and the adaptations effected by this Part of this Order shall apply in addition to the adaptations effected by the Government of Ireland (Resealing of Probates, etc.) Order, 1921(c).

(a) S.R. & O. 1921 (No. 1803) p. 1326.

(b) S.R. & O. 1921 No. 1802, p. 954 above.

(c) See now S.R. & O 1922 (No. 81) p. 715, superseded with savings by S.R. & O. 1923 No. 613, see the title “Administration of Estates”.

4.—(1) The district registries at Belfast and Armagh shall cease to exist, and the district of the district registry at Londonderry shall consist of the counties of Londonderry, Tyrone and Fermanagh, and the county borough of Londonderry, and shall cease to include the county of Donegal; and Schedule A to the Act of 1857 shall be adapted accordingly.

(2) The counties of Donegal, Monaghan and Louth shall be attached to the principal registry in Dublin, and so much of Northern Ireland as is not included in the district of the district registry at Londonderry as hereinbefore constituted shall be attached to the principal registry in Belfast.

(3) The power of the Lord Lieutenant in Council under section 17 of the Act of 1857 to alter the districts of district registries shall include power to add the area hereinbefore attached to the principal registry in Dublin or any part thereof to any district or districts in Southern Ireland or to constitute the same or any part thereof a separate district in Southern Ireland, and to fix the place of the district registry for such district.

5. The principal registry of the King's Bench Division (Probate) of the High Court of Justice in Southern Ireland shall be included amongst the offices to which the registrars in Northern Ireland are to cause copies of the calendars to be transmitted pursuant to section 73 of the Act of 1857 as it applies to Northern Ireland, and the principal registry of the King's Bench Division (Probate) of the High Court of Justice in Northern Ireland shall be included amongst the offices to which the registrars in Southern Ireland are to cause copies of the calendars to be transmitted pursuant to the said section as it applies to Southern Ireland.

6. In the application of the Act of 1857 to Northern Ireland—

- (a) section 23 shall have effect as if the words "appointed by the Lord Chief Justice of Northern Ireland" were substituted for the words "appointed by the judge, but subject to the approval of the Lord Chancellor";
- (b) section 24 shall have effect as if the words "removed by the Lord Chief Justice of Northern Ireland" were substituted for the words "removed by the judge, with the sanction of the Lord Chancellor";
- (c) section 71 shall have effect as if the word "Belfast" were substituted for the word "Dublin";
- (d) section 114 shall have effect as if references to the Lord Chief Justice of Northern Ireland were substituted for any reference to the judge of the court.

PART III(a)

LOCAL REGISTRATION OF TITLE(b)

7.—(1) This Part of this Order applies to the Local Registration of Title (Ireland) Act, 1891 (in this Part of this Order referred to as "the Act of 1891"), as amended by any subsequent enactment. 54 & 55 Vict.
c. 66.

- (a) See also S.R. & O. 1924 No. 1221, p. 965 below.
- (b) See now "6. Land Registration", p. 1036 below.

(2) In this Part of this Order the expression “ Registrar of Titles in Southern Ireland ” means such officer of the Supreme Court of Judicature of Southern Ireland as may be appointed or assigned for the discharge, as respects Southern Ireland, of the duties which immediately before the 15th day of December, 1921, were discharged by the Registrar of Titles, and the expression “ Registrar of Titles in Northern Ireland ” means such officer of the Supreme Court of Judicature of Northern Ireland as may be appointed or assigned for the discharge, as respects Northern Ireland, of the duties which immediately before the said day were discharged by the Registrar of Titles.

8. The Act of 1891 as amended by any subsequent enactment shall be subject to the following adaptations :—

- (a) in the application of the said Act to Southern Ireland references to Ireland shall be construed as references to Southern Ireland, and references to the Registrar of Titles shall be construed as references to the Registrar of Titles in Southern Ireland ;
- (b) in the application of the said Act to Northern Ireland references to Ireland shall be construed as references to Northern Ireland ; references to the city of Dublin shall be construed as references to the city of Belfast, and references to the Registrar of Titles shall be construed as references to the Registrar of Titles in Northern Ireland ;
- (c) so much of section 14 of the said Act as provides that a decision of the Court of Appeal is to be final and conclusive shall not apply to a decision of His Majesty’s Court of Appeal in Southern Ireland or His Majesty’s Court of Appeal in Northern Ireland.

9.—(1) For the purpose of forming the registers and duplicate registers to be kept in the Central Office in Belfast under the Act of 1891 as it applies to Northern Ireland, the Registrar of Titles in Southern Ireland shall separate from the registers or duplicate registers kept in the Central Office in Dublin so much thereof as relates to land in Northern Ireland, or, if and so far as such separation is not physically possible in the case of any register or duplicate register, shall cause a copy to be made of so much of the register or duplicate register, and shall certify the same to be a true copy, and shall transmit the part of any register or duplicate register so separated or the copy so certified, as the case may be, to the Registrar of Titles in Northern Ireland, together with any documents in the Central Office in Dublin which relate solely or mainly to land or matters in Northern Ireland.

(2) The Lord Chief Justice of Ireland and the Lord Chief Justice of Northern Ireland shall by order appoint the time or times when any part of a register or duplicate register or the certified copy thereof or any such documents as aforesaid shall be transmitted to the Registrar of Titles in Northern Ireland, and shall determine the procedure to be adopted in carrying out the foregoing provisions of this article, and all questions arising in connection therewith ; and in the event of their disagreement the matter in dispute shall be referred to the Lord Chancellor of Ireland, whose decision shall be final.

(3) Until the part of a register or duplicate register which relates to registered land in Northern Ireland or the certified copy thereof has been transmitted to the Registrar of Titles in Northern Ireland pursuant to such order as in subsection (2) of this article is mentioned, the Central Office for the purposes of registration in connection with such land shall be the Central Office established under the Act of 1891 in Dublin ; and the Registrar of Titles and the Central Registering authority for such land shall be the Registrar of Titles in Southern Ireland, who shall have all the powers and duties in connection therewith of the Registrar of Titles in Northern Ireland under the said Act as adapted by this Order.

(4) If any questions arise as to whether the separation of a register is physically possible, or as to whether any documents relate solely or mainly to land or matters in Northern Ireland, the same shall be determined by the judges in Northern and Southern Ireland respectively to whom the duties of Land Judge of the Chancery Division are for the time being assigned, or, if they disagree, by the Lord Chancellor of Ireland.

10. The securities and moneys which on the 15th day of December, 1921, represent the insurance fund established pursuant to section 92 of the Act of 1891 shall, together with the rights and liabilities affecting the same, be apportioned as between Southern Ireland and Northern Ireland by the Treasury, and the securities and moneys apportioned to Southern Ireland and Northern Ireland respectively shall be transferred in such manner and to such persons respectively as may be directed by the Treasury, and when transferred shall form part of the insurance fund in Southern Ireland or the insurance fund in Northern Ireland, as the case may be, and the provisions of the said Act with respect to the insurance fund shall be construed distributively as applying to the insurance fund in Southern Ireland or the insurance fund in Northern Ireland, as the case requires.

PART IV

COURT HOUSES (IRELAND) ACT, 1840

11.—(1) This Part of this Order applies to section 1 of the Court Houses (Ireland) Act, 1840. 3 & 4 Vict.
c. 102.

(2) The said section in its application to counties in Northern Ireland shall have effect with the substitution of the words “ six miles ” for the words “ one mile.”

Almeric FitzRoy.
