

## **NOTE ON THE HIGH COURT JURISDICTION**

### **HIGH COURT**

1. The work of the High Court is divided, for practical and administrative purposes, into three Divisions. Its jurisdiction is, however, in law indivisible and belongs to all Divisions alike. Thus, all Judges of the High Court have equal power, authority and jurisdiction, regardless of the Division to which they are assigned.
2. In addition to their main functions, a High Court Judge may also sit:
  - i. in the Court of Appeal (Civil Division), as an additional Judge of that Court, if so requested by the Lord Chancellor.
  - ii. in a county court, with his consent, on such occasions and at such times as the Lord Chancellor considers desirable. (This is now extremely rare.)
  - iii. Judges of the Family Division may be asked to sit in either the Criminal Division of the Court of Appeal or the Administrative Court.
3. The High Court has jurisdiction in all civil matters, except those specifically reserved by statute for the county courts or for other tribunals. The High Court now has no original criminal jurisdiction, although it does retain some supervisory and appellate jurisdiction in the Queen's Bench Divisional Court in relation to criminal matters.

### **EMPLOYMENT APPEAL TRIBUNAL**

4. Judges from all three Divisions of the High Court are from time to time appointed members of the Employment Appeal Tribunal. The Tribunal was constituted under the Employment Protection Act 1975 and is a superior court of record. It exercises a specialised appellate jurisdiction, hearing appeals on questions of law arising from any decisions of, or any proceedings before, an Employment Tribunal (for example, claims of unfair dismissal, redundancy matters and alleged discriminatory acts). The President is a High Court Judge, and other judicial members sit in rotation as required. The role of the judge is to preside over a three-member Tribunal, the other two members of which are lay-people (one an employers' representative and the other a trades union representative). There is a right of appeal from the Tribunal to the Court of Appeal (Civil Division).

### **QUEEN'S BENCH DIVISION**

5. The Queen's Bench Division has the most diverse work of the three Divisions of the High Court. Its jurisdiction is exercised over the whole field of civil law not covered by the other two Divisions, but in practice the work is divided into the following categories:
  - i. Admiralty and Commercial cases. Most Admiralty cases concern collision of ships or damage to cargo, whilst the work of the Commercial Court is largely concerned with contracts related to ships, insurance, carriage of cargo and the construction and performance of mercantile contracts. The Commercial Court also determines cases involving banking, international credit, contracts relating to aircraft, the purchase and sale of commodities and the practice of arbitration and questions arising from arbitrators. The Admiralty and Commercial Court lists are part of the Queen's Bench Division and cases are heard by Queen's Bench Division Judges specifically nominated by the Lord Chief Justice in consultation with the Lord Chancellor, mainly in London.
  - ii. Administrative Court cases concern matters of administrative law, especially judicial review, and criminal law and can involve appeals by way of case stated etc from inferior tribunals (in particular magistrates courts) and the exercise of the supervisory jurisdiction over inferior courts, tribunals, government ministers,

public bodies and others exercising public law functions. These cases are heard in London by a Single Judge or by a Divisional Court consisting of a Lord Justice and one or two High Court judges, or two High Court judges sitting without a Lord Justice. All cases can be heard, with some exceptions, in the four Administrative Courts outside London in Birmingham, Cardiff, Leeds and Manchester. The Divisional Court also exercises jurisdiction in respect of habeas corpus, committal for contempt committed in an inferior court or elsewhere (but not in connection with proceedings in the High Court) and appeals and applications under various statutory provisions including those on planning matters under the Town and Country Planning Acts.

- iii. Civil cases involving a jury\*(e.g. defamation and wrongful arrest), civil cases not involving a jury, and interlocutory proceedings and appeals from Masters and District Judges. These cases are heard both in London and in High Court centres outside London. (\*There is a right of trial by jury for fraud, libel, slander, malicious prosecution or false imprisonment cases. In all other cases the judge has discretion to allow trial by jury, but it is only used exceptionally. In jury trials the jury decides the amount of damages to be awarded.)
- iv. The Technology and Construction Court involves prolonged examination of technical issues, such as construction disputes. These cases are dealt with by a combination of designated Circuit Judges and High Court Judges assigned to the work. This list is supervised by a Queen's Bench Judge who is nominated by the Lord Chief Justice to act in this capacity.

### **Appeals from the High Court**

6. A right of appeal from the High Court lies, in general, to the Civil Division of the Court of Appeal. In a few cases, however, where a point of law of general importance is involved and certain other conditions are fulfilled, there is a direct right of appeal ("leapfrog") from the High Court to the House of Lords. In criminal cases heard on appeal in the Divisional Court of the Queen's Bench Division there is also, subject to leave, a direct appeal to the House of Lords.

### **Appeals from the County Court**

7. Judges of the Queen's Bench Division are also required to deal with designated appeals from the County Court including, where appropriate, granting permission to appeal.

### **The Crown Court**

8. The Crown Court has exclusive jurisdiction in trials on indictment.
9. In the Crown Court, cases are classified into four classes under directions made by the Lord Chief Justice. Those in classes 1 and 2 are nominally reserved for trial by High Court Judges. (In class 1, however, some cases of murder, or of incitement, attempt or conspiracy to commit murder, may be tried by authorised Circuit Judges, whilst in class 2, the great majority of offences, other than piracy, mutiny, sedition and offences under the Geneva Convention, are tried by authorised Circuit Judges.) Class 2 includes most serious sexual offences, along with manslaughter and child destruction.
10. The majority of fraud cases are tried by Circuit Judges, but some may be allocated to High Court Judges.
11. All other cases are either automatically listed for trial by Circuit Judges, Recorders or Assistant Recorders or are normally so listed unless a particularly difficult case is specially reserved for trial by a High Court Judge. In practice, however, local, listing or

other considerations may sometimes make it appropriate for a High Court Judge to try a case which would normally be tried by a Circuit Judge.

12. The Crown Court also sentences persons convicted by magistrates' courts but who are committed to the Crown Court because the magistrates are of the opinion that a more severe sentence may be called for than they have power to pass. The Crown Court also has an appellate jurisdiction which comprises mainly appeals from magistrates' courts in criminal and some civil matters and Youth Court proceedings. Many of the civil appeals relate to licensing and betting and gaming cases. It is unusual, however, for a High Court Judge to take the appellate work of the Crown Court or committals for sentence; this work is normally undertaken by Circuit Judges or Recorders, sitting with Justices of the Peace.
13. In relation to offences tried on indictment, the right of appeal lies against conviction or sentence from the Crown Court to the Court of Appeal (Criminal Division), subject to leave unless the appeal is solely on a point of law. (The right of appeal in Crown Court appellate matters lies by way of case stated to the Divisional Court of the Queen's Bench Division.)

## **FAMILY DIVISION**

14. The Family Division exercises the matrimonial and domestic jurisdiction of the High Court, which is now largely concerned with adoption; guardianship; residence, contact and financial issues ancillary to divorce; nullity; judicial separation; long defended divorce proceedings; and wardship (in which the High Court has exclusive jurisdiction). The use of wardship by local authorities is now severely limited, and most applications are made by private individuals. Care proceedings, mental health issues for vulnerable adults, life and death and serious illness cases for children.
15. The Children Act 1989 established for the first time a concurrent family jurisdiction across all tiers of court. This jurisdiction covers public law cases (those usually brought by local authorities or the NSPCC and including matters such as care supervision and emergency protection orders) and private law cases (those brought by private individuals generally in connection with divorce or the parents' separation). The High Court has jurisdiction to hear all cases relating to children.
16. The High Court of the Family Division also hears certain appeals in respect of a variety of domestic proceedings. It consists of one High Court Judge. Appeals are entered at the Principal Registry in London, where the High Court generally sits.

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