



# Administration of Justice Act 1973

## 1973 CHAPTER 15

### PART II

#### MISCELLANEOUS

#### **6 Jurisdiction of county courts in relation to land.**

- (1) In the enactments mentioned in Schedule 2 to this Act (which deal with the jurisdiction of county courts in actions relating to land, and connected matters) there shall be made the amendments required by that Schedule, in lieu of any amendment of the same words made by previous enactments; and the county court limit under any of the enactments amended by an entry in Part I of the Schedule shall be the amount specified in column 3 in that entry or such greater amount as Her Majesty may from time to time by Order in Council direct.
- (2) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament.
- (3) No provision of this Act or of any Order in Council under this section shall affect the operation of section 49 of the <sup>M1</sup>County Courts Act 1959 or that of section 109(2)(a), (b) or (c) of that Act in the case of actions commenced before the coming into force of that provision.

**Marginal Citations**

M1 1959 c. 22.

[<sup>F1</sup>7

(1) ..... <sup>F2</sup>

(2) In section 93 of that Act (which enables the judge to refer proceedings or questions arising in proceedings for inquiry and report) there shall be made the following amendments—

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1973, Part II. (See end of Document for details)*

- (a) in subsection (1), at the end, there shall be inserted the words “and, in such cases as may be prescribed by and subject to county court rules, the registrar may refer to a referee for inquiry and report any question arising in any proceedings.” ; and
- (b) in subsection (2), after the word “judge”, there shall be inserted the words “or, as the case may be, the registrar”.]

#### Textual Amendments

- F1 S. 7 repealed (E.W.) by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), Sch. 4
- F2 S. 7(1) repealed by Administration of Justice Act 1977 (c. 38), Sch. 5 Pt. VI

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

- C1 The text of ss. 7(2), 14(1), 18(1) and Sch. 2 Pt. II and part of s. 1(9) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified does not reflect any amendments or repeals made prior to 1.2.1991.

## 8 Extension of powers of court in action by mortgagee of dwelling-house.

- (1) Where by a mortgage of land which consists of or includes a dwelling-house, or by any agreement between the mortgagee under such a mortgage and the mortgagor, the mortgagor is entitled or is to be permitted to pay the principal sum secured by instalments or otherwise to defer payment of it in whole or in part, but provision is also made for earlier payment in the event of any default by the mortgagor or of a demand by the mortgagee or otherwise, then for purposes of section 36 of the <sup>M2</sup>Administration of Justice Act 1970 (under which a court has power to delay giving a mortgagee possession of the mortgaged property so as to allow the mortgagor a reasonable time to pay any sums due under the mortgage) a court may treat as due under the mortgage on account of the principal sum secured and of interest on it only such amounts as the mortgagor would have expected to be required to pay if there had been no such provision for earlier payment.
- (2) A court shall not exercise by virtue of subsection (1) above the powers conferred by section 36 of the <sup>M3</sup>Administration of Justice Act 1970 unless it appears to the court not only that the mortgagor is likely to be able within a reasonable period to pay any amounts regarded (in accordance with subsection (1) above) as due on account of the principal sum secured, together with the interest on those amounts, but also that he is likely to be able by the end of that period to pay any further amounts that he would have expected to be required to pay by then on account of that sum and of interest on it if there had been no such provision as is referred to in subsection (1) above for earlier payment.
- (3) Where subsection (1) above would apply to an action in which a mortgagee only claimed possession of the mortgaged property, and the mortgagee brings an action for foreclosure (with or without also claiming possession of the property), then section 36 of the Administration of Justice Act 1970 together with subsections (1) and (2) above shall apply as they would apply if it were an action in which the mortgagee only claimed possession of the mortgaged property, except that—
  - (a) section 36(2)(b) shall apply only in relation to any claim for possession; and
  - (b) section 36(5) shall not apply.

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- (4) For purposes of this section the expressions “dwelling-house”, “mortgage”, “mortgagee” and “mortgagor” shall be construed in the same way as for the purposes of Part IV of the Administration of Justice Act 1970.
- (5) This section shall have effect in relation to an action begun before the date on which this section comes into force if before that date judgment has not been given, nor an order made, in that action for delivery of possession of the mortgaged property and, where it is a question of subsection (3) above, an order *nisi* for foreclosure has not been made in that action.
- (6) In the application of this section to Northern Ireland, subsection (3) shall be omitted.

#### Marginal Citations

- M2** 1970 c. 31.  
**M3** 1970 c. 31.

## 9 Judicial salaries.

- (1) Subject to the following subsections, there shall be paid to—
  - (a) Lords of Appeal in Ordinary;
  - [<sup>F3</sup>(b) judges of the Supreme Court in England and Wales other than the Lord Chancellor;]
  - (c) judges of the Court of Session;
  - (d) judges of the Supreme Court in Northern Ireland;
  - (e) metropolitan stipendiary magistrates;
  - (f) stipendiary magistrates appointed under [<sup>F4</sup>this Act][<sup>F4</sup>section 13 of the Justices of the Peace Act 1979 (or, by virtue of paragraph 7 of Schedule 1 to that Act, treated as so appointed)];such salaries as may be determined, with the consent of the Minister for the Civil Service, by the Lord Chancellor or, in the case of judges of the Court of Session, by the Secretary of State.
- (2) Until otherwise determined under this section, there shall be paid to the holders of judicial office mentioned in paragraphs (a) to (e) of subsection (1) above the same salaries as at the coming into force of this section.
- (3) Any salary payable under this section may be increased, but not reduced, by a determination or further determination under this section.
- (4) . . . . . <sup>F5</sup>
- (5) Salaries payable under this section shall be charged on and paid out of the Consolidated Fund of the United Kingdom.

#### Textual Amendments

- F3** S. 9(1)(b) repealed (E.W.) by Supreme Court Act 1981 (c. 54, SIF 37), s. 152(4), Sch. 7
- F4** Words commencing “section 13” substituted (E.W.) for words “this Act” by Justices of the Peace Act 1979 (c. 55, SIF 82), s. 71, Sch. 2 para. 23
- F5** S. 9(4) repealed by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), ss. 84(e), 125(6)(7), Sch. 19 para. 10(4), Sch. 20

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

- C2** By virtue of S.I 1981/1670, arts. 2, 3(5), s. 9(1) has effect as if the reference to the Minister for the Civil Service were a reference to the Treasury

### **10 Judicial pensions (increase of widow's and children's pensions).**

[<sup>F6</sup>(1) The annual amount of the widow's pension that may be granted under or by virtue of the <sup>M4</sup>Administration of Justice (Pensions) Act 1950 wholly or partly in respect of relevant service after the passing of this Act, and the annual amount of the children's pension that may be so granted, shall be increased in accordance with this section; and where the widow's pension or children's pension (if any) that may be granted in respect of a person's relevant service is so increased, there shall be made towards the cost of the liability therefor such contributions (in lieu of or in addition to that required by section 8 of the Act of 1950) as may be prescribed, in the form either of a reduction or further reduction of the lump sum pension benefit payable in respect of that service or of deductions from the salary so payable or partly in one of those forms and partly in the other.]

[<sup>F6</sup>(2) In the case of pensions attributable wholly to relevant service after the passing of this Act,—

- (a) the annual amount of a widow's pension may be one-half of the annual amount of the personal pension of the deceased; and
- (b) subject to section 7(4) of the Act of 1950 (which makes provision for the case of a widow remarrying), the annual amount of a children's pension, while there is only one person for whose benefit it can enure, may amount—
  - (i) where the deceased was a man who left a widow and she is still alive, to one-quarter of the annual amount of the personal pension; and
  - (ii) in any other case, to one-third of the annual amount of the personal pension;

and while there are two or more persons for whose benefit it can enure, may amount to twice the figure given by whichever is applicable of sub-paragraphs (i) and (ii) above.

In section 7(4) of the Act of 1950 the reference to subsection (2) of that section shall include paragraph (b)(ii) of this subsection.]

[<sup>F6</sup>(3) Subject to subsection (4) below, in the case of pensions payable partly in respect of relevant service after the passing of this Act but not attributable wholly to that service, the annual value of the widow's pension or children's pension that may be granted shall be determined by reference to the proportions which the relevant service before and after that time bear to the whole of the relevant service, and shall be the amount obtained by adding—

- (a) the part proportionate to the service before that time of the annual amount of the pension that might have been granted if this section had not been passed; and
- (b) the part proportionate to the service after that time of the annual amount of the pension that might have been granted if this section had always had effect.]

[<sup>F6</sup>(4) In relation to persons serving at the passing of this Act provision may be made by regulations whereby, subject to any prescribed conditions, an election may be made by or with respect to a person—

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- (a) that subsection (2) above shall apply to him as if the whole of his relevant service were service after the passing of this Act, and subsection (3) shall not apply;
- (b) that subsections (1) to (3) above shall not apply to him, and the Act of 1950 shall apply as if this section had not been passed;
- (c) in the case of a person who elected under section 11(1) or (2) of the Act of 1950 for his eligibility for pension not to satisfy the conditions for the grant of a widow's or children's pension, that the election under that section shall be revoked.]

[<sup>F6</sup>(5) Where a person's relevant service is partly before and partly after the passing of this Act, then for the purposes of this section any widow's or children's pension payable in respect of that service is to be regarded as attributable wholly to the service after that time if the service before that time does not add to the annual rate of the personal pension, and for the purposes of subsection (3) there shall be left out of account so much (if any) of the service before that time as does not add to the annual amount of the personal pension.]

[<sup>F6</sup>(6) Regulations made for purposes of this section may make provision for consequential or incidental matters, including provision excluding or modifying the operation of any enactment passed before this Act; and in particular any regulations providing for contributions by deduction from salary may make consequential provision as to sections 10 and 11 of the Act of 1950 and any other enactment referring or relating to lump sums payable under that Act.]

[<sup>F6</sup>(7) Regulations for purposes of this section may be made, with the concurrence of the Minister for the Civil Service, by the Lord Chancellor or, in relation to pensions for service in offices existing only in Scotland, by the Secretary of State; and the power to make regulations for purposes of this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

(8) The foregoing provisions of this section shall have effect in relation to the enactments mentioned in Schedule 3 to this Act as they have effect in relation to the Act of 1950, but subject to the adaptations provided for by that Schedule; and provision corresponding to that which is made by subsections (1) and (3) above, or which may be made by regulations under this section for purposes of those subsections may, in relation to the pension benefits of any resident magistrate or county court registrar included in Schedule 5 to the Superannuation (Northern Ireland) Order 1972 (persons remaining subject to the Superannuation Acts (Northern Ireland) 1967 and 1969), be made by order of the Ministry of Finance for Northern Ireland.

F7

(9) ..... F8

#### Textual Amendments

- F6** S. 10(1)–(7), except as applied by subsection (8), repealed (with saving) by [Judicial Pensions Act 1981 \(c. 20, SIF 71:2\)](#), s. 36, Sch. 2 para. 18, **Sch. 4**
- F7** Words repealed by [Northern Ireland Constitution Act 1973 \(c. 36\)](#), **Sch. 6 Pt. I**
- F8** S. 10(9) repealed by [Judicial Pensions Act 1981 \(c. 20, SIF 71:2\)](#), s. 36, **Sch. 4**

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### Marginal Citations

**M4** 1950 c. 11 (14 & 15 Geo. 6).

## 11 ..... F9

### Textual Amendments

**F9** S. 11 repealed by [Judicial Pensions Act 1981 \(c. 20, SIF 71:2\)](#), s. 36, [Sch. 4](#)

## 12 Retirement of higher judiciary in event of incapacity.

- (1) Where the Lord Chancellor is satisfied by means of a medical certificate that a person holding office as Lord of Appeal in Ordinary, [<sup>F10</sup>as judge of the Supreme Court in England and Wales] or as judge of the Supreme Court in Northern Ireland is disabled by permanent infirmity from the performance of the duties of his office, but is for the time being incapacitated from resigning it, then subject to subsections (2) to (4) below the Lord Chancellor may by instrument under his hand declare that person's office to have been vacated, and the instrument shall have the like effect for all purposes as if that person had on the date of the instrument resigned his office.
- (2) A declaration under this section with respect to a Lord of Appeal in Ordinary shall be of no effect unless it is made with the concurrence of the senior of the Lords of Appeal or, if made with respect to him, with that of the next senior of them.
- [<sup>F11</sup>(3) A declaration under this section with respect to a judge of the Supreme Court in England and Wales shall be of no effect unless it is made—
- (a) in the case of any of the Lord Chief Justice, the Master of the Rolls, the President of the Family Division and the Vice-Chancellor, with the concurrence of two others of them;
  - (b) in the case of a Lord Justice of Appeal, with the concurrence of the Master of the Rolls;
  - (c) in the case of a puisne judge of the Queen's Bench Division, with the concurrence of the Lord Chief Justice;
  - (d) in the case of a puisne judge of the Chancery Division other than the Vice-Chancellor, with the concurrence of the Vice-Chancellor;
  - (e) in the case of a puisne judge of the Family Division, with the concurrence of the President of the Family Division.]
- (4) A declaration under this section with respect to a judge of the Supreme Court of Northern Ireland shall be of no effect unless it is made with the concurrence of the Lord Chief Justice of Northern Ireland or, if made with respect to him, with that of the senior Lord Justice of Appeal.

### Textual Amendments

**F10** Words repealed (E.W.) by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

**F11** S. 12(3) repealed (E.W.) by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

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**13** ..... **F12**

**Textual Amendments**

**F12** S. 13 repealed by [Judicial Pensions Act 1981 \(c. 20, SIF 71:2\)](#), s. 36, [Sch. 4](#)

**14 Pensions of resident magistrates in Northern Ireland.**

- (1) In the <sup>M5</sup>Residents Magistrates' Pensions Act (Northern Ireland) 1960 the definition of "retiring salary" in section 22(1) shall be amended by omitting the word "average" and by substituting for the words "during the three years immediately preceding the date of his retirement" the words "immediately before his retirement".
- (2) This section shall not affect any pension or other benefit payable to or in respect of a person who retired or died before the coming into force of this section.
- (3) ..... **F13**

**Textual Amendments**

**F13** S. 14(3) repealed by [Northern Ireland Constitution Act 1973 \(c. 36\)](#), [Sch. 6 Pt. I](#)

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

**C3** The text of ss. 7(2), 14(1), 18(1) and Sch. 2 Pt. II and part of s. 1(9) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified does not reflect any amendments or repeals made prior to 1.2.1991.

**Marginal Citations**

**M5** 1960 c. 2 (N.I.).

**15** ..... **F14**

**Textual Amendments**

**F14** S. 15 repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

**16 Appointment of deputy district registrars of High Court and deputy county court registrars.**

[<sup>F15</sup>(1) If it appears to the Lord Chancellor that it is expedient as a temporary measure to make an appointment under this subsection in order to facilitate the disposal of business in the High Court, he may appoint a person to be a deputy district registrar in any district registry of the High Court during such period or on such occasions as the Lord Chancellor thinks fit; and a deputy district registrar, while acting under his appointment, shall have the same powers as if he were the district registrar.]

- (2) ..... **F16**

*Status: Point in time view as at 01/02/1991.*

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[<sup>F17</sup>(7) After the coming into force of this section no further appointment shall be made of provisional district registrars or deputy district registrars under section 84 of the <sup>M6</sup>Supreme Court of Judicature (Consolidation) Act 1925 or section 11 of the <sup>M7</sup>Administration of Justice Act 1956, or of deputy county court registrars under section 27 of the County Courts Act 1959; and on the coming into force of this section any person then holding office as deputy district registrar or deputy county court registrar shall vacate that office, but so that subsections (4), (5) and (6) above shall thereafter apply to him as if he had been appointed under this section for a period then expiring.]

**Textual Amendments**

- F15** S. 16(1) repealed (E.W.) by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)
- F16** S. 16(2)—(6) repealed by [County Courts Act 1984 \(c. 28, SIF 34\)](#), s. 148(3), [Sch. 4](#)
- F17** S. 16(7) repealed (E.W.) by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

**Marginal Citations**

- M6** 1925 c. 49.
- M7** 1956 c. 46.

17 ..... <sup>F18</sup>

**Textual Amendments**

- F18** S. 17 repealed by [Prosecution of Offences Act 1985 \(c. 23\)](#), s. 31(6), [Sch. 2](#)

**18 Payment of interpreters in criminal cases (Northern Ireland).**

(1) In the Costs in Criminal Cases Act (Northern Ireland) 1968, after section 5 thereof, there shall be inserted the following section—

**“5A Fees of required interpreter.**

Notwithstanding anything to the contrary contained in this Act, where in any criminal proceedings an interpreter is required because of a defendant’s lack of English, the expenses properly incurred on his employment shall, in accordance with rules made pursuant to section 7, be defrayed by the Ministry.”

(2) Where in any of the following proceedings, that is to say,—

- (a) ..... <sup>F19</sup>
- (b) any proceedings before . . . <sup>F20</sup> the High Court of Justice in Northern Ireland in a criminal cause or matter;
- (c) any proceedings on an appeal to the House of Lords from a decision in proceedings within . . . <sup>F21</sup> (b) above or an application for leave to appeal from such a decision;

an interpreter is required because of a defendant’s lack of English, the expenses properly incurred on his employment shall be defrayed by the [<sup>F22</sup>Secretary of State],



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up to an amount allowed by the court or (in the case of proceedings in that House) by the House of Lords.

In this subsection “defendant” means the person (whether convicted or not) who is alleged to be guilty of an offence.

(3) ..... F23

**Textual Amendments**

- F19 S. 18(2)(a) repealed by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), s. 51(2), **Sch. 5**
- F20 Words repealed by [Judicature \(Northern Ireland\) Act 1978 \(c. 23\)](#), s. 123(2), **Sch. 7 Pt. I**
- F21 Words repealed by [Criminal Appeal \(Northern Ireland\) Act 1980 \(c. 47, SIF 38\)](#), s. 51(2), **Sch. 5**
- F22 Words substituted by [S.I. 1980/704 \(N.I. 6\)](#), art. 12, **Sch. 1 para. 69**
- F23 S. 18(3) repealed by [Northern Ireland Constitution Act 1973 \(c. 36\)](#), **Sch. 6 Pt. I**

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

- C4 The text of ss. 7(2), 14(1), 18(1) and Sch. 2 Pt. II and part of s. 1(9) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified does not reflect any amendments or repeals made prior to 1.2.1991.

**Status:**

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