



# Administration of Justice Act 1956

1956 CHAPTER 46 4 and 5 Eliz 2

## PART I

### ADMIRALTY JURISDICTION AND OTHER PROVISIONS AS TO SHIPS

1—20. ....<sup>F1</sup>

#### Textual Amendments

**F1** S. 1–20 repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

## PART III

### COUNTY COURTS

#### *Appointment, etc., of judges and officers*

21 .....<sup>F2</sup>

#### Textual Amendments

**F2** S. 21 repealed (with savings) by [County Courts Act 1959 \(c. 22\)](#), [Sch. 3](#)

22—24 .....<sup>F3</sup>

*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1956. (See end of Document for details)*

**Textual Amendments**

**F3** Ss. 22–24, 26–30, 32 repealed by Court Act 1959 (c. 22), s. 204, **Sch. 3**

**25** ..... **F4**

**Textual Amendments**

**F4** S. 25 repealed by Judicial Pensions Act 1981 (c. 20, SIF 71:2), s. 36, **Sch. 4**

**26—** ..... **F5**  
**30.**

**Textual Amendments**

**F5** Ss. 22–24, 26–30, 32 repealed by Court Act 1959 (c. 22), s. 204, **Sch. 3**

**31**  
(1) ..... **F6**  
(2) ..... **F7**  
(3) ..... **F6**

**Textual Amendments**

**F6** S. 31(1)(3)(4) repealed by County Courts Act 1959 (c. 22), **Sch. 3**

**F7** S. 31(2) repealed by Matrimonial Causes Act 1965 (c. 73), s. 45, **Sch. 2**

**32** ..... **F8**

**Textual Amendments**

**F8** Ss. 22–24, 26–30, 32 repealed by Court Act 1959 (c. 22), s. 204, **Sch. 3**

**33 Interpretation and citation of Part III.**

(1) In this Part of this Act, except in so far as the context otherwise requires, expressions used in the principal Act have the same meanings as in that Act.

(2) In this Part of this Act the expression “the principal Act” means the County Courts Act<sup>M1</sup> 1934.

(3) ..... **F9**

*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1956. (See end of Document for details)*

**Textual Amendments**

**F9** S. 33(3) repealed by [County Courts Act 1959 \(c. 22\)](#), **Sch. 3**

**Marginal Citations**

**M1** 1934 c. 53.

**PART IV**

GENERAL PROVISIONS AS TO ENFORCEMENT OF JUDGEMENTS AND ORDERS

**34** ..... **F10**

**Textual Amendments**

**F10** S. 34 repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), ss. 152(4), 153(2), **Sch. 7**

**35** ..... **F11**

**Textual Amendments**

**F11** S. 35 repealed by [Charging Orders Act 1979 \(c. 53, SIF 45:1\)](#), **s. 7(2)**

**36** **Receivers.**  
..... **F12**

**Textual Amendments**

**F12** S. 36 repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), **s. 153(2)**

**F13****37** .....

**Textual Amendments**

**F13** S. 37 repealed (1.7.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76\)](#), s. 125(7), **Sch. 20**;  
[S.I. 1991/1364, art. 2](#), **Sch.**

**38** ..... **F14**

*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1956. (See end of Document for details)*

#### Textual Amendments

**F14** S. 38 repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 153(2)

39 ..... <sup>F15</sup>

#### Textual Amendments

**F15** Ss. 37(4), 39, 41 repealed by [County Courts Act 1959 \(c. 22\)](#), [Sch. 3](#)

### 40 Effect of registration of judgments of courts outside England and Wales.

Section five of the <sup>M2</sup>Debtors Act 1869, as amended by any subsequent enactment, and . . . <sup>F16</sup>, as so amended, shall have effect as if—

- (a) any judgment of the High Court of Northern Ireland or decret of the Court of Session a certificate of which has been registered in the High Court under section one or section three of the <sup>M3</sup>Judgments Extension Act 1868; and
- (b) any judgment, as defined in Part II of the Administration of <sup>M4</sup>Justice Act 1920, which has been registered in the High Court under the said Part II; and
- (c) any judgment, as defined in the Inferior Courts Judgments <sup>M5</sup>Extension Act 1882, a certificate of which has been registered in the High Court or in [<sup>F17</sup>the county court] under that Act,

were a judgment of the High Court or, as the case may be, of [<sup>F17</sup>the county court], and proceedings may be taken under [<sup>F18</sup>the said Act of 1869] accordingly.

#### Textual Amendments

**F16** Words repealed by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235, [Sch. 8 para. 11\(a\)](#), Sch. 10 Pt. III

**F17** Words in s. 40 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 54](#); S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**F18** Words substituted by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235, [Sch. 8 para. 11\(b\)](#)

#### Marginal Citations

**M2** 1869 c. 62.

**M3** 1868 c. 54.

**M4** 1920 c. 81.

**M5** 1882 c. 31.

41 ..... <sup>F19</sup>

#### Textual Amendments

**F19** Ss. 37(4), 39, 41 repealed by [County Courts Act 1959 \(c. 22\)](#), [Sch. 3](#)

*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1956. (See end of Document for details)*

42— ..... F20  
44.

**Textual Amendments**

**F20** Ss. 42–44 repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 153(2)

**PART V**

**ADMIRALTY JURISDICTION AND ARRESTMENT OF SHIPS IN SCOTLAND**

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

**C1** Part V extended, with modifications, by [Hovercraft Act 1968 \(c. 59\)](#), s. 2

**45 Jurisdiction in relation to collisions, etc.**

- (1) Subject to the provisions of this Part of this Act, any court having Admiralty jurisdiction shall have jurisdiction to entertain, as against any defender, an action to which this section applies if, but only if,—
  - (a) the defender has his habitual residence or a place of business in the area for which the court acts, or
  - (b) the cause of action arose in the area for which the court acts and either within inland waters or within the limits of a port, or
  - (c) an action arising out of the same incident or series of incidents is proceeding in the court or has been heard and determined by the court, or
  - (d) the defender has prorogated the jurisdiction of the court, or
  - (e) a ship in which the defender owns one or more shares has been arrested (whether ad fundandam jurisdictionem or on the dependence of the action) within the area for which the court acts.

- (2) Where an action to which this section applies is raised in a court having jurisdiction by virtue only of one or more of the provisions of the preceding subsection other than paragraph (d) thereof, and it appears to the court that cognate proceedings are depending in a competent court outside Scotland, the first mentioned court shall sist the action if so moved by any party thereto, and shall not recall the sist until satisfied that the cognate proceedings have been discontinued or have otherwise come to an end:

Provided that nothing in this subsection shall prevent the first mentioned court from entertaining any application as to diligence in the action.

In this subsection “cognate proceedings”, in relation to any action, means proceedings instituted, before the granting of warrant for service in the action, by the pursuer in the action against any other party to the action, being proceedings in respect of the same incident or series of incidents as those with which the action is concerned.

- (3) This section applies to actions for payment of reparation arising out of one or more of the following incidents, that is to say—
  - (a) any collision between ships, or

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- (b) the carrying out of, or the omission to carry out, a manoeuvre in the case of one or more of two or more ships, or
- (c) the non-compliance, on the part of one or more of two or more ships, with the collision regulations.

(4) In this section—

“inland waters” includes any part of the sea adjacent to the coast of the United Kingdom certified by the Secretary of State to be waters falling by international law to be treated as within the territorial sovereignty of Her Majesty apart from the operation of that law in relation to territorial waters;

“port” means any port, harbour, river, estuary, haven, dock, canal or other place so long as a person or body of persons is empowered by or under an Act or charter to make charges in respect of ships entering it or using the facilities therein, and “limits of a port” means the limits thereof as fixed by or under the Act in question or, as the case may be, by the relevant charter or custom;

“charges” means any charges with the exception of light dues, local light dues and any other charges in respect of lighthouses, buoys or beacons and of charges in respect of pilotage.

- (5) For the avoidance of doubt it is hereby declared that any reference in this section to an action for payment of reparation does not include a reference to an action to make good a [F21maritime] lien.
- (6) Section six of the M6Sheriff Courts (Scotland) Act 1907 (as amended by any subsequent enactment), shall cease to have effect in relation to actions to which this section applies.

#### **Textual Amendments**

**F21** Words in s. 45(5) inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), [Sch. 4 para. 2](#) (with s. 223); S.S.I. 2010/249, [art. 2](#)

#### **Marginal Citations**

**M6** 1907 c. 51.

## **46 Exclusion of jurisdiction in cases falling within Rhine Convention.**

No court shall have jurisdiction to determine any claim or question certified by the Secretary of State to be a claim or question which, under the Rhine Navigation Convention, falls to be determined in accordance with the provisions thereof.

In this section “the Rhine Navigation Convention” means the Convention of the seventh of October, eighteen hundred and sixty-eight, as revised by any subsequent Convention.

## **47 Arrest of ships on the dependence of an action or in rem.**

- (1) Subject to the provisions of this section and section fifty of this Act, no warrant issued after the commencement of this Part of this Act for the arrest of property on the dependence of an action or in rem shall have effect as authority for the detention of a ship unless the conclusion in respect of which it is issued is appropriate for the enforcement of a claim to which this section applies, and, in the case of a warrant to

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arrest [<sup>F22</sup>a ship or other maritime property which is not cargo] on the dependence of an action, unless [<sup>F23</sup>at the time when the arrestment is executed] either—

- (a) the ship is the ship with which the action is concerned [<sup>F24</sup>and the defender against whom that conclusion is directed owns at least one share in it or is the demise charterer of it], or
- (b) all the shares in the ship are owned by the defender <sup>F25</sup> . . . .

[<sup>F26</sup>(1A) Where a warrant to arrest on the dependence referred to in subsection (1) above (an “initial arrestment”) has been executed, then, subject to subsection (1B) below, no further warrant may be granted to arrest on the dependence—

- (a) the subjects of the initial arrestment; or
- (b) while the initial arrestment continues to have effect, any other ship in which the defender owns at least one share,

in respect of the claim to which the initial arrestment relates.

(1B) A further warrant to arrest on the dependence may be granted if—

- (a) the further arrestment complies with the requirements of subsection (1) above; and
- (b) cause is shown for granting the further warrant.]

(2) This section applies to any claim arising out of one or more of the following, that is to say—

- (a) damage done or received by any ship;
- (b) loss of life or personal injury sustained in consequence of any defect in a ship or in her apparel or equipment, or of the wrongful act, neglect or default of the owners, charterers or persons in possession or control of a ship or of the master or crew thereof or of any other person for whose wrongful acts, neglects or defaults the owners, charterers or persons in possession or control of a ship are responsible, being an act, neglect or default in the navigation or management of the ship, in the loading, unloading or discharge of goods on, in or from the ship or in the embarkation, carriage or disembarkation of persons on, in or from the ship;

[<sup>F27</sup>(c) the Salvage Convention, 1989;

- (ca) any contract for or in relation to salvage services;]
- (d) any agreement relating to the use or hire of any ship whether by charterparty or otherwise;
- (e) any agreement relating to the carriage of goods in any ship whether by charterparty or otherwise;
- (f) loss of, or damage to, goods carried in any ship;
- (g) general average;
- (h) any bottomry bond [<sup>F28</sup>or contract of respondentia];
- (i) towage;
- (j) pilotage;
- (k) the supply of goods or materials to a ship for her operation or maintenance;
- (l) the construction, repair or equipment of any ship;
- (m) liability for dock charges or dues;
- (n) liability for payment of wages <sup>F29</sup> . . . of a master or member of the crew of a ship;
- (o) master’s disbursements, including disbursements made by shippers, charterers or agents on behalf of a ship or her owner;

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- (p) any dispute as to the ownership or right to possession of any ship or as to the ownership of any share in a ship;
- (q) any dispute between co-owners of any ship as to the ownership, possession, employment or earnings of that ship;
- (r) the mortgage [<sup>F30</sup>, hypothecation of or existence of any other charge on] any ship or any share in a ship;
- (s) any forfeiture or condemnation of any ship, or of goods which are being, or have been, carried, or have been attempted to be carried, in any ship, or for the restoration of a ship or any such goods after seizure.

[<sup>F31</sup>(2A) An action having a conclusion appropriate for the enforcement of a claim to which subsection (2) above applies shall be known as an “admiralty action”.]

- (3) In any proceedings having a conclusion appropriate for the enforcement of any claim such as is mentioned in paragraphs (p) to (s) of [<sup>F32</sup>subsection (2) above] a warrant may be issued—
  - (a) if the conclusion is a pecuniary conclusion, for the arrest of the ship [<sup>F33</sup>or of any share in it] on the dependence of the action; or
  - (b) in any other case (whether or not the claimant is entitled to a [<sup>F34</sup>maritime] lien over the ship), for the arrest of the ship in rem;

but there shall not be issued in respect of any such conclusion as aforesaid (whether pecuniary or otherwise) a warrant to arrest, either in rem or on the dependence of the action, any ship other than the ship [<sup>F35</sup>or, as the case may be, any share in a ship other than in the ship,] to which the conclusion relates.

- (4) Subject to the preceding subsection, nothing in this section shall be taken to authorise—
  - (a) the use of an arrestment on the dependence of an action otherwise than in respect of a pecuniary conclusion, or
  - (b) the use of an arrestment in rem otherwise than in respect of a conclusion appropriate for the making good of a [<sup>F36</sup>maritime] lien.

- (5) A warrant for the arrest of a ship in rem issued by virtue of paragraph (b) of subsection (3) of this section in a case where the person in whose favour it is issued is not entitled to a [<sup>F37</sup>maritime] lien over the ship shall have effect as authority for the detention of the ship as security for the implementation of the decree of the court so far as it affects that ship:

Provided that the court may, on the application of any person having an interest, recall the arrestment if satisfied that sufficient bail or other security for such implementation has been found.

[<sup>F38</sup>(5A) Subject to subsection (6) below, it is competent to execute an arrestment of a ship, cargo or other maritime property regardless of whether the ship or other maritime property is in non-tidal or tidal waters or on land.

(5B) In subsection (5A) above, “tidal waters” means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides.]

- (6) [<sup>F39</sup>It is not competent to execute an arrestment of a ship or cargo on board] a ship while it is on passage.



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(7) Nothing in this section shall authorise the arrest, whether on the dependence of an action or in rem, of a ship in respect of any claim against the Crown, or the arrest, detention or sale of any of Her Majesty’s ships or Her Majesty’s aircraft.

In this subsection “Her Majesty’s ships” and “Her Majesty’s aircraft” have the meanings assigned to them by subsection (2) of section thirty-eight of the <sup>M7</sup>Crown Proceedings Act 1947.

(8) . . . . . F40

[<sup>F41</sup>(8) In—

- (a) paragraph (c) of subsection (2) above, the “Salvage Convention, 1989” means the International Convention on Salvage 1989 as it has effect under [<sup>F42</sup>section 224 of the Merchant Shipping Act 1995];
- (b) paragraph (ca) of that subsection, the reference to salvage services includes services rendered in saving life from a ship and the reference to any claim arising out of any contract for or in relation to salvage services includes any claim arising out of such a contract whether or not arising during the provision of such services,

and the claims mentioned in subsections (2)(c) and (ca) shall be construed as including claims available by virtue of section 87 of the Civil Aviation Act 1982.

#### Textual Amendments

- F22** Words in s. 47(1) inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 7(2)(a)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F23** Words in s. 47(1) inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 7(2)(b)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F24** Words in s. 47(1)(a) inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 7(2)(c)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F25** Words in s. 47(1)(b) repealed (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 7(2)(d)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F26** S. 47(1A)(1B) inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 7(3)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F27** S. 47(2)(c)(ca) substituted (1.1.1995) for s. 47(2)(c) by 1994 c. 28, s. 1(6), **Sch. 2 para. 4(2)(a)**; S.I. 1994/2971, **art. 2**, **Sch.**
- F28** Words in s. 47(2)(h) inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 4(a)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F29** Words in s. 47(2)(n) repealed (1.1.1996) by 1995 c. 21, ss. 314(1)(2), 316(2), Sch. 12, **Sch. 13 para. 29(2)(a)** (with s. 312(1), Sch. 14 para. 1)
- F30** Words in s. 47(2)(r) substituted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 3** (with s. 223); S.S.I. 2010/249, **art. 2**
- F31** S. 47(2A) inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 4(b)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F32** Words in s. 47(3) substituted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 4(c)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F33** Words in s. 47(3)(a) inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 7(4)(a)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F34** Word in s. 47(3)(b) inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 2** (with s. 223); S.S.I. 2010/249, **art. 2**
- F35** Words in s. 47(3) inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 7(4)(b)** (with s. 223); S.S.I. 2010/249, **art. 2**

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- F36** Word in s. 47(4)(b) inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 2** (with s. 223); S.S.I. 2010/249, **art. 2**
- F37** Word in s. 47(5) inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 2** (with s. 223); S.S.I. 2010/249, **art. 2**
- F38** S. 47(5A)(5B) inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 11(a)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F39** Words in s. 47(6) substituted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 11(b)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F40** S. 47(8) repealed by Statute Law Revision Act 1963 (c. 30)
- F41** S. 47(8) added (1.1.1995) by 1994 c. 28, s. 1(6), **Sch. 2 para. 4(2)(b)**; S.I. 1994/2971, art. 2, **Sch.**
- F42** Words in s. 47(8)(a) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 29(2)(a)** (with s. 312(1))

#### Marginal Citations

- M7** 1947 c. 44.

#### [<sup>F43</sup>47A Execution of warrant to arrest in rem and of order for sale

- (1) A warrant for the arrestment in rem of a ship, cargo or other maritime property granted by the sheriff may be executed—
- (a) within the sheriffdom in which the warrant was granted; or
  - (b) where the ship, cargo or other maritime property was situated within that sheriffdom when the warrant was granted, anywhere in Scotland.
- (2) For the avoidance of doubt, where a warrant for arrestment in rem granted by the sheriff has been executed, an order for the sale of the arrested ship, cargo or other maritime property may be made notwithstanding that it is not situated within the sheriffdom when the order is made.]

#### Textual Amendments

- F43** S. 47A inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 6** (with s. 223); S.S.I. 2010/249, **art. 2**

#### [<sup>F44</sup>47B Expenses

- (1) Subject to subsection (3) below, a pursuer shall be entitled to such expenses as are incurred—
- (a) in obtaining warrant for the arrest of a ship, cargo or other maritime property on the dependence of an action; and
  - (b) in executing the arrestment.
- (2) Subject to subsection (4) below, a defender shall be entitled, where—
- (a) warrant for the arrest of a ship, cargo or other maritime property on the dependence of an action is granted; and
  - (b) the court is satisfied that the pursuer was acting unreasonably in applying for it,
- to such expenses as are incurred in opposing that warrant.
- (3) The court may modify or refuse such expenses as are mentioned in subsection (1) above if it is satisfied that—

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- (a) the pursuer was acting unreasonably in applying for the warrant; or
  - (b) such modification or refusal is reasonable in all the circumstances and having regard to the outcome of the action.
- (4) The court may modify or refuse such expenses as are mentioned in subsection (2) above if it is satisfied as to the matter mentioned in subsection (3)(b) above.
- (5) Subject to subsections (1) to (4) above, the court may make such findings as it thinks fit in relation to such expenses as are mentioned in subsections (1) and (2) above.
- (6) Expenses incurred as mentioned in subsections (1)(a) and (2) above shall be expenses of process.
- (7) Subsections (1) to (4) above are without prejudice to any enactment or rule of law as to the recovery of expenses chargeable against a debtor as are incurred in executing an arrestment on the dependence of an action.
- (8) Where warrant is granted for the arrest of a ship in rem in proceedings to which section 47(3)(b) of this Act applies, the court may make such findings as it thinks fit in relation to expenses incurred—
- (a) in obtaining the warrant and, as the case may be, executing the arrestment;
  - (b) in opposing the application for the warrant.
- (9) For the avoidance of doubt, expenses incurred in applying for and executing the arrest of a ship, cargo or other maritime property in rem in respect of a conclusion appropriate for the making good of a maritime lien shall be expenses of process.]

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**Textual Amendments**

**F44** S. 47B inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), [Sch. 4 para. 8](#) (with s. 223); S.S.I. 2010/249, [art. 2](#)

**[<sup>F45</sup>47C Competence of arresting cargo**

- (1) It is not competent to execute an arrestment of cargo unless the cargo is on board a ship when the arrestment is executed.
- (2) For the avoidance of doubt, it is competent to execute an arrestment of cargo where it is in the possession of the defender or of a person acting on behalf of the defender.

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**Textual Amendments**

**F45** Ss. 47C, 47D inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), [Sch. 4 para. 9](#) (with s. 223); S.S.I. 2010/249, [art. 2](#)

**47D Arrestment of cargo: restriction on movement of ship**

Where cargo is arrested, the ship is treated as if arrested until the cargo is unloaded.]

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**Textual Amendments**

**F45** Ss. 47C, 47D inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 9** (with s. 223); S.S.I. 2010/249, **art. 2**

*<sup>F46</sup>Special provision in relation to charters by demise*

**Textual Amendments**

**F46** Ss. 47E-47H and preceding cross-heading inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 12** (with s. 223); S.S.I. 2010/249, **art. 2**

**47E Sale of ship arrested on the dependence of action against demise charterer**

- (1) This section applies where—
  - (a) a ship is arrested on the dependence of an admiralty action against the demise charterer of it; and
  - (b) the pursuer obtains decree for payment for all or part of a principal sum concluded for in the action.
- (2) Where the owner or demise charterer of the ship—
  - (a) pays the sum due under the decree to—
    - (i) the pursuer; or
    - (ii) any person who has authority to receive payment on behalf of the pursuer; or
  - (b) tenders that sum to any of those persons and the tender is not accepted within a reasonable time,  
the arrestment ceases to have effect.
- (3) The court may, on the application of the pursuer, make an order for the sale of the ship.
- (4) Subject to sections 47F and 47G below, the court shall rank any claims made on the proceeds.
- (5) A ship sold under subsection (3) above vests in the purchaser free of any security or other encumbrance.
- (6) The Court of Session may, by Act of Sederunt, make provision relating to proceedings under this section.

**47F Ranking of arrestments on sale of ship chartered by demise**

In any ranking process relating to the proceeds of sale of a ship (or any share in a ship), an arrestment of the ship (or share) executed before the sale by a creditor of the owner of the ship (or share) shall rank in preference over any arrestment of the ship executed on the dependence of an admiralty action against the demise charterer of the ship.

*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1956. (See end of Document for details)*

#### **47G Ranking of arresting creditor of demise charterer in sequestration or winding up of owner**

- (1) This section applies where—
- (a) a ship is arrested on the dependence of an admiralty action against the demise charterer of it; and
  - (b) at any time after the arrestment is executed—
    - (i) the owner of the ship's estate is sequestrated; or
    - (ii) where the owner is a company, it is wound up.
- (2) The creditor who executed the arrestment is entitled to rank on the proceeds of any sale of the ship resulting from the sequestration or, as the case may be, winding up.
- [<sup>F47</sup>(3) Subsections (6) to (8) of section 24 of the Bankruptcy (Scotland) Act 2016 (further provision as regards the effect of sequestration on diligence) and, in so far as applying and modifying those subsections, section 185(1)(a) and (2) of the Insolvency Act 1986 (application of sequestration provisions relating to diligence on winding up) shall apply to such an arrestment as they apply to any other arrestment.]

#### **Textual Amendments**

**F47** S. 47G(3) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 8 para. 4](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

#### **47H Arrestment to found jurisdiction in action against demise charterer**

Where the defender in an admiralty action is the demise charterer of the ship with which the action is concerned, the court may, on the application of the pursuer, grant warrant to arrest the ship to found jurisdiction.]

#### **48 Interpretation of Part V.**

- [<sup>F48</sup>(1)] In this Part of this Act, unless the context otherwise requires,—
- (a) references to an action, a pursuer and a defender include respectively references to a counter-claim, the person making a counter-claim and the person against whom a counter-claim is made;
  - (b) any reference to a conclusion includes a reference to a crave, and “pecuniary conclusion” does not include a conclusion for expenses;
  - (c) any reference to a warrant to arrest property includes a reference to letters of arrestment and to a precept of arrestment;
  - (d) <sup>F49</sup> .....
  - <sup>F50</sup>(e) .....
  - (f) the following expressions have the meanings hereby assigned to them respectively, that is to say—
    - “collision regulations” means [<sup>F51</sup>safety regulations under section 85 of the Merchant Shipping Act 1995];
    - “goods” includes baggage;
    - “master” has the same meaning as in the [<sup>F51</sup>Merchant Shipping Act 1995], and accordingly includes every person (except a pilot) having command or charge of a ship;

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“ship” includes any description of vessel used in navigation not propelled by oars;

“towage” and “pilotage” in relation to an aircraft, mean towage and pilotage while the aircraft is waterborne.

[<sup>F52</sup>(2) In this Act and in any other enactment (including an Act of the Scottish Parliament and any enactment comprised in subordinate legislation under such an Act), “maritime lien” means a hypothec over a ship, cargo or other maritime property.]

#### Textual Amendments

- F48** S. 48 renumbered as s. 48(1) (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 1(a)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F49** S. 48(1)(d) repealed (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 1(b)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F50** S. 48(e) repealed (1.1.1995) by 1994 c. 28, **ss. 1(6)**, 10(3), Sch. 2 para. 4(3), Sch. 4; S.I. 1994/2971, **art. 2, Sch.**
- F51** Words in s. 48(f) substituted (1.1.1996) by 1995 c. 21, s. 314(2), **Sch. 13 para. 29(3)** (with s. 312(1))
- F52** S. 48(2) inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), **Sch. 4 para. 1(c)** (with s. 223); S.S.I. 2010/249, **art. 2**

**49** <sup>F53</sup>(1) . . . . .

(2) . . . . . <sup>F54</sup>

#### Textual Amendments

- F53** S. 49(1) repealed (1.1.1996) by 1995 c. 21, ss. 314(1), **Sch. 12** (with s. 312(1), Sch. 14 para. 1)
- F54** S. 49(2) repealed by [Animal Health Act 1981 \(c. 22, SIF 4:4\)](#), s. 96(2), **Sch. 6**

## **50 Application and commencement of Part V.**

- (1) This Part of this Act shall apply to Scotland only.
- (2) This Part of this Act shall come into operation on such day as the Secretary of State may appoint by order made by statutory instrument.
- (3) Nothing in this Part of this Act shall affect any action in respect of which warrant for service has been granted before the commencement of this Part of this Act.

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

- C2** 1.1.1957 appointed under s. 50(2) by [S.I. 1956/2099](#) (1956 I, p. 558), art. 2

*Changes to legislation: There are currently no known outstanding effects  
for the Administration of Justice Act 1956. (See end of Document for details)*

## PART VI

### MISCELLANEOUS AND SUPPLEMENTAL

#### 51 **Modification of Foreign Judgments (Reciprocal Enforcement) Act 1933, in relation to certain parts of Her Majesty’s dominions.**

Where an Order in Council is made extending Part I of the <sup>M8</sup>Foreign Judgments (Reciprocal Enforcement) Act 1933 to a part of Her Majesty’s dominions or other territory to which Part II of the <sup>M9</sup>Administration of Justice Act 1920 extends, the said Part I shall, in relation to that part of Her Majesty’s dominions or other territory, have effect as if—

- (a) ..... <sup>F55</sup>
- (b) the fact that a judgment was given before the coming into operation of the Order did not prevent it from being a judgment to which the said Part I applies, but the time limited for the registration of a judgment were, in the case of a judgment so given, twelve months from the date of the judgment or such longer period as may be allowed by the High Court in England and Wales, the Court of Session in Scotland, or the High Court in Northern Ireland;
- (c) any judgment registered in any of the said courts under the said Part II before the coming into operation of the Order had been registered in that court under the said Part I and anything done in relation thereto under the said Part II or any rules of court or other provisions applicable to the said Part II had been done under the said Part I or the corresponding rules of court or other provisions applicable to the said Part I.

#### Textual Amendments

**F55** S. 51(a) repealed by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), s. 54, [Sch. 14](#)

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

**C3** S. 51 extended by [S.I. 1980/701](#), art. 7, [Sch. para. 4\(1\)](#)

#### Marginal Citations

**M8** 1933 c. 13.

**M9** 1920 c. 81.

#### 52 ..... <sup>F56</sup>

#### Textual Amendments

**F56** S. 52 repealed by [Courts 1971 \(c. 23\)](#), s. 56(4), [Sch. 11](#), Pts. II, IV

#### 53 ..... <sup>F57</sup>

*Changes to legislation: There are currently no known outstanding effects  
for the Administration of Justice Act 1956. (See end of Document for details)*

**Textual Amendments**

**F57** S. 53 repealed by Courts and Legal Services Act 1990 (c. 41, SIF 37, 76:1), s. 125(2)(7), Sch. 17 para. 3, Sch. 20

**54** ..... **F58**

**Textual Amendments**

**F58** S. 54, 56 repealed by Supreme Court Act 1981 (c. 54, SIF 37), s. 152(4), Sch. 7

**55 Provisions as to Northern Ireland.**

- (1) The provisions of Parts I and II of the First Schedule to this Act (being provisions corresponding respectively to Part I and section forty of this Act) shall apply to Northern Ireland, . . . <sup>F59</sup>
- (2) The provisions of the said Schedule shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument, and he may appoint different days for different purposes; but nothing in Part I of the said Schedule shall affect proceedings in respect of any cause of action arising before the coming into operation thereof.
- (3) Section fifty-one of this Act shall extend to Northern Ireland.
- (4) For the purposes of section six of the Government of Ireland Act, 1920, this Act shall, so far as it relates to matters within the powers of the Parliament of Northern Ireland, be deemed to be an Act passed before the appointed day within the meaning of that section.
- (5) Save as provided by this section this Act shall not extend to Northern Ireland.

**Textual Amendments**

**F59** Words repealed by Statute Law (Repeals) Act 1974 (c. 22), Sch. Pt. XI

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

- C4** 1.3.1957 appointed under s. 55(2) by S.I. 1957/306 (1957 II, p. 2466)
- C5** The text of s. 56(4), Sch. 1 para. 5(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**56** ..... **F60**

**Textual Amendments**

**F60** S. 54, 56 repealed by Supreme Court Act 1981 (c. 54, SIF 37), s. 152(4), Sch. 7



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*Changes to legislation: There are currently no known outstanding effects  
for the Administration of Justice Act 1956. (See end of Document for details)*

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**57 †Short title, repeal, extent and commencement.**

- (1) This Act may be cited as the Administration of Justice Act 1956.
- (2) ..... <sup>F61</sup>
- (3) This Act, except Part V and section fifty-one thereof, shall not extend to Scotland.
- (4) The provisions of this Act, other than Part V thereof, section fifty-five thereof and the First Schedule thereto, shall come into force on such day as the Lord Chancellor may appoint by order made by statutory instrument, and he may appoint different days for different purposes.

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**Textual Amendments**

**F61** S. 57(2) repealed by Statute Law (Repeals) Act 1974 (c. 22), s. 1, Sch. Pt. XI

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

- C6** Unreliable marginal note
- C7** Power of appointment conferred by s. 57(4) fully exercised
- C8** 16.7.1956 appointed under s. 57(4) for the purposes of ss. 25, 33 and 54 by S.I. 1956/1065 (1956 II, p. 2332)

**Changes to legislation:**

There are currently no known outstanding effects for the Administration of Justice Act 1956.