



# Administration of Justice Act 1977

## 1977 CHAPTER 38

### PART I

#### GENERAL

#### 1 Legal aid, advice and assistance.

- (1) The enactments relating to legal aid, advice and assistance in England and Wales shall be amended in accordance with Part I of Schedule 1 to this Act.
- (2) . . . <sup>F1</sup>

#### Textual Amendments

- F1** [S. 1\(2\)](#) repealed by [Legal Aid \(Scotland\) Act 1986 \(c. 47, SIF 77:2\)](#), ss. 43, 45(3), Sch. 4 para. 3(1), [Sch. 5](#)

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

- C1** The text of ss. 1(1), 4, 5, 11, 12, 17(2), 19(2)(5), 24, 26(1), 28, 29, 32(4) Schs. 3, 5 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### 2 Determination of expenses etc.

- (1) The amendments specified in Part I of Schedule 2 to this Act shall have effect for the purpose of enabling the rates of the sums whose payment is provided for by the enactments mentioned in that Part of that Schedule (which extend to England and Wales only) to be determined administratively.
- (2) The amendments specified in Part II of that Schedule shall have effect for the purpose of enabling the rates of the sums whose payment is provided for by the enactments mentioned in that Part of that Schedule (which extend to Scotland only) to be determined administratively.

*Status: Point in time view as at 31/01/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1977. (See end of Document for details)*

- (3) The amendment specified in Part III of that Schedule shall have effect in the enactment mentioned in that Part of that Schedule (which extends to the whole of the United Kingdom) for the purpose of enabling the rates of the sums whose payment is provided for by it to be determined administratively.

### 3 Enforcement of maintenance orders.

Schedule 3 to this Act shall have effect in relation to the enforcement in one part of the United Kingdom of maintenance orders made in another part.

### 4 Obligations, awards and judgments expressed in foreign currency. <sup>X1</sup>

- (1) The provisions specified in subsection (2) below shall cease to have effect.
- (2) The provisions mentioned in subsection (1) above are—
- (a) in the <sup>M1</sup>Bills of Exchange Act 1882—
    - (i) section 57(2) (measure of damages for bills dishonoured abroad), and
    - (ii) section 72(4) (rate of exchange), and
  - (b) the following provisions (which require the conversion to United Kingdom currency as at the date of registration of the judgments and awards to which they relate)—
    - (i) section 2(3) of the <sup>M2</sup>Foreign Judgments (Reciprocal Enforcement) Act 1933 ;
    - (ii) section 1(3) of the <sup>M3</sup>Arbitration (International Investment Disputes) Act 1966, and
    - (iii) Article 3(2) of the <sup>M4</sup>European Communities (Enforcement of Community Judgments) Order 1972.
- (3) The provisions specified in subsection (2)(a) above shall continue to have effect in relation to bills drawn before the coming into force of this section.
- (4) The provisions specified in subsection (2)(b) above shall continue to have effect in relation to judgments and awards registered before the coming into force of this section.

#### Editorial Information

**X1** The text of ss. 1(1), 4, 5, 11, 12, 17(2), 19(2)(5), 24, 26(1), 28, 29, 32(4) Schs. 3, 5 does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M1** 1882 c. 61.  
**M2** 1933 c. 13.  
**M3** 1966 c. 41.  
**M4** S.I. 1972/1590.

### 5 Appeals etc. from courts-martial. <sup>X2</sup>

- (1) The following section shall be inserted after section 33 of the <sup>M5</sup>Courts-Martial (Appeals) Act 1968—

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*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1977. (See end of Document for details)*

### “33A Appellant’s expenses.

Without prejudice to section 31 above, where an appellant who is not in custody appears before the Appeal Court either on the hearing of his appeal or in any preliminary or incidental proceedings, the Appeal Court may direct the Secretary of State to pay him the expenses of his appearance.”

- (2) In section 34(2) of that Act (reference of cases by Service authorities), for the words “other than those of sections 31 and 32” there shall be substituted the words “ other than that of section 32 ”.
- (3) Section 35 of that Act (order for costs of defence on reference) (which is superseded by this section) shall cease to have effect.
- (4) In section 47(3) of that Act (costs on appeals to the House of Lords), for the words from the beginning to “accused”, in the first place where it occurs, there shall be substituted the words “ On determining an appeal from the Appeal Court, ”.

#### Editorial Information

**X2** The text of ss. 1(1), 4, 5, 11, 12, 17(2), 19(2)(5), 24, 26(1), 28, 29, 32(4) Schs. 3, 5 does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M5** 1968 c. 20.

6 ..... F2

#### Textual Amendments

**F2** S. 6 repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44, SIF 43:1\)](#), s. 159(3), [Sch. 17](#)

### 7 Extent of powers of receivers and managers in respect of companies.

- (1) A receiver appointed under the law of any part of the United Kingdom in respect of the whole or part of any property or undertaking of a company and in consequence of the company having created a charge which, as created, was a floating charge may exercise his powers in any other part of the United Kingdom so far as their exercise is not inconsistent with the law applicable there.
- (2) In subsection (1) above “receiver” includes a manager and a person who is appointed both receiver and manager.

8 ..... F3

#### Textual Amendments

**F3** S. 8 repealed (31.7.1978) by [Oaths Act 1978 \(c. 19\)](#), [Sch. Pt. I](#)

*Status: Point in time view as at 31/01/1997.*

*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1977. (See end of Document for details)*

9, 10. .... F4

#### Textual Amendments

F4 Ss. 9, 10 repealed by Supreme Court Act 1981 (c. 54, SIF 37), s. 152(4), Sch. 7

#### [<sup>F5</sup>11 Funds in Court.

- (1) For section 3 of the Administration of Justice Act 1965 (Accountant General to maintain an account at Bank of England) there shall be substituted the following section:—

**“ Accountant General to maintain bank account.**

The Accountant General shall maintain an account at the Bank of England or at such other bank as may be designated by the Lord Chancellor with the concurrence of the Treasury and shall pay all sums received by him into that account and all sums payable by him out of it.”.

- (2) In section 4 of that Act (mode of effecting payment of money and transfer of securities, &c., into Supreme Court)—
- (a) in subsection (1), for the words “Bank of England to the credit of the Accountant General’s account” there shall be substituted the words “Accountant General’s account under section 3 above”; and
  - (b) in subsection (3), after the words “Bank of England” there shall be inserted the words “or other such bank as may have been designated under section 3 above”.
- (3) The following section shall be inserted after section 6 of that Act:—

**“ Transfer of funds in court to Official Custodian for Charities and Church Commissioners.**

- (1) Any funds for the time being vested in the Accountant General and held by him in trust for any charity or in trust for any ecclesiastical corporation in the Church of England may, if the Accountant General on an application made in that behalf to him by the Charity Commissioners or the Church Commissioners thinks fit so to direct, be transferred to the Official Custodian for Charities or the Church Commissioners, as the case may be.
- (2) Any funds transferred by virtue of a direction given under subsection (1) above shall be vested in and held by the Official Custodian for Charities or the Church Commissioners respectively in trust for the charity or ecclesiastical corporation upon the trusts upon which the funds were held before the transfer.
- (3) No fees shall be payable under the Supreme Court of Judicature (Consolidation) Act 1925 or any rule or order made under it in respect of a transfer of funds under this section.
- (4) In this section “ecclesiastical corporation” means a capitular body within the meaning of the Cathedrals Measure 1963 or the incumbent of a benefice.”.]

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**Textual Amendments**

**F5** s. 11 repealed (prosp.) by Administration of Justice Act 1982 (c. 53, SIF 37), ss. 75(1), 76, **Sch. 9 Pt. I**

**PART II**

ENGLAND AND WALES

*Circuit judges and county courts*

**12 Alteration of qualifications for appointment as Circuit judge.** <sup>X3</sup>

In section 16(3) of the <sup>M6</sup>Courts Act 1971 (service for five years as a Recorder to be a qualification for appointment as a Circuit judge) for the word “five” there shall be substituted the word “three”.

**Editorial Information**

**X3** The text of ss. 1(1), 4, 5, 11, 12, 17(2), 19(2)(5), 24, 26(1), 28, 29, 32(4) Schs. 3, 5 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.

**Marginal Citations**

**M6** 1971 c. 23.

**13—** ..... <sup>F6</sup>  
**16.**

**Textual Amendments**

**F6** Ss. 13–16, 17(1), 18, 19(1)(3)(4), 20 repealed by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), **Sch. 4**

**17 County court jurisdiction in respect of arbitrations.**

(1) ..... <sup>F7</sup>

<sup>F8</sup>(2) .....

**Textual Amendments**

**F7** Ss. 13–16, 17(1), 18, 19(1)(3)(4), 20 repealed by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), **Sch. 4**

**F8** S. 17(2) repealed (31.1.1997) by 1996 c. 23, s. 107(2), **Sch. 4** (with ss. 1, 2, 5, 81, 84, 93(6), 94, 95, 106); S.I. 1996/3146, **art. 3** (with Sch. 2 paras. 2, 3)

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*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1977. (See end of Document for details)*

18 ..... F9

**Textual Amendments**

**F9** Ss. 13–16, 17(1), 18, 19(1)(3)(4), 20 repealed by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), Sch. 4

19 **County court registrars.**

(1) ..... F10

<sup>X4</sup>(2) In section 168 of that Act (rules as to funds in county courts)—

- (a) in paragraph (c), for the words from “registrars” to “General” there shall be substituted the words “ the transfer to the Accountant General of ”, and
- (b) in paragraphs (i) and (j), for the word “registrars”, wherever occurring, there shall be substituted the words “ officers of the court ”.

(3) ..... F10

<sup>X4</sup>(5) In section 6 of the <sup>M7</sup>Attachment of Earnings Act 1971—

- (a) in paragraphs (a)(ii) and (b) of subsection (7) (collecting officers), for the word “registrar” there shall be substituted the words “ appropriate officer ”, and
- (b) the following subsection shall be added after that subsection:—

“(8) In subsection (7) above “appropriate officer” means an officer designated by the Lord Chancellor.”.

**Editorial Information**

**X4** The text of ss. 1(1), 4, 5, 11, 12, 17(2), 19(2)(5), 24, 26(1), 28, 29, 32(4) Schs. 3, 5 does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Textual Amendments**

**F10** Ss. 13–16, 17(1), 18, 19(1)(3)(4), 20 repealed by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), Sch. 4

**Marginal Citations**

**M7** 1971 c. 32.

20 ..... F11

**Textual Amendments**

**F11** Ss. 13–16, 17(1), 18, 19(1)(3)(4), 20 repealed by County Courts Act 1984 (c. 28, SIF 34), s. 148(3), Sch. 4

21 ..... F12

*Status: Point in time view as at 31/01/1997.*

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#### Textual Amendments

**F12** S. 21 repealed by [Justices of the Peace Act 1979 \(c. 55, SIF 82\)](#), s. 71, [Sch. 3](#)

#### *Other provisions about courts*

## 22 Membership of Rule Committees.

It shall cease to be a requirement that the practising barristers included among the persons empowered to make rules of court under . . . <sup>F13</sup> section 50 of the <sup>M8</sup>Matrimonial Causes Act 1973 be members of the General Council of the Bar.

#### Textual Amendments

**F13** Words repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

#### Marginal Citations

**M8** 1973 c. 18.

## 23 Jurisdiction of ancient courts.

- (1) The following courts, namely—
  - (a) any court of a description specified in Part I of Schedule 4 to this Act except—
    - (i) the Estray Court for the Lordship of Denbigh, and
    - (ii) the court leet for the Manor of Laxton, and
  - (b) the courts specified in Part II of that Schedule,  
being the courts which appear to the Lord Chancellor to have, but not to exercise, jurisdiction to hear and determine legal proceedings, shall cease to have any jurisdiction to hear and determine legal proceedings; but any such court may continue to sit and transact such other business, if any, as was customary for it immediately before the coming into force of this section, and in the case of the courts specified in Part III of Schedule 4 to this Act the business that is to be treated as having been customary shall (apart from business relating to the appointment of officers of the court) be the business specified in relation to that court in column 2 of that Part.
- (2) The descriptions of courts in Part I of Schedule 4 to this Act include courts held for manors of which the Queen or the Duke of Cornwall is the lord.
- (3) Any jurisdiction—
  - (a) of the Court of the Chancellor or Vice-Chancellor of Oxford University, and
  - (b) of the Cambridge University Chancellor's Court,other than that which presently exists under the statutes of those universities, is hereby abolished.
- (4) The Lord Chancellor may by order make any incidental or transitional provision which he considers expedient in consequence of this section and may by such order provide—
  - (a) for enabling any jurisdiction appearing to him to have been formerly exercised by a court specified in Part I or II of Schedule 4 to this Act to be exercised

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instead by the High Court, the Crown Court, a county court or a magistrates’ court; and

(b) for such amendments or repeals of provisions of any local Act as appear to him to be required in consequence of this section.

(5) The power to make orders under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and any such order may be varied or revoked by a subsequent order made under the power.

*Land Registration*

24

In section 82(3) of the Land Registration Act 1925—

(a) after the word “interest” there shall be inserted the words “ or an order of the court ” ;

(b) the following paragraph shall be substituted for paragraph (a)—

“(a) unless the proprietor has caused or substantially contributed to the error or omission by fraud or lack of proper care ; or” ; and

(c) paragraph (b) shall cease to have effect.

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

**C2** The text of ss. 1(1), 4, 5, 11, 12, 17(2), 19(2)(5), 24, 26(1), 28, 29, 32(4) Schs. 3, 5 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.

25

..... F14

**Textual Amendments**

**F14** S. 25 repealed by [Land Registration Act 1988 \(c. 3, SIF 98:2\)](#), ss. 2, [Sch.](#)

26

**Alteration of methods of protecting mortgages of registered land.**

(1) The following section shall be substituted for section 106 of the <sup>M9</sup>Land Registration Act 1925 (which among other things provides that a mortgage by deed of registered land may be protected by means of a caution in a specially prescribed form and in no other way):—

**“106 Creation and protection of mortgages of registered land.**

(1) The proprietor of any registered land may, subject to any entry to the contrary on the register, mortgage, by deed or otherwise, the land or any part of it in any manner which would have been permissible if the land had not been registered and, subject to this section, with the like effect.

(2) Unless and until the mortgage becomes a registered charge,—



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- (a) it shall take effect only in equity, and
  - (b) it shall be capable of being overridden as a minor interest unless it is protected as provided by subsection (3) below.
- (3) A mortgage which is not a registered charge may be protected on the register by—
- (a) a notice under section 49 of this Act,
  - (b) any such other notice as may be prescribed, or
  - (c) a caution under section 54 of this Act.
- (4) A mortgage which is not a registered charge shall devolve and may be transferred, discharged, surrendered or otherwise dealt with by the same instruments and in the same manner as if the land had not been registered.”.
- (2) The Chief Land Registrar may arrange for the conversion into a registered charge, in such circumstances and subject to such conditions as he may direct, of any mortgage protected by a caution in a specially prescribed form entered on the register before the coming into force of this section.

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

**C3** The text of ss. 1(1), 4, 5, 11, 12, 17(2), 19(2)(5), 24, 26(1), 28, 29, 32(4) Schs. 3, 5 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.

**Marginal Citations**

**M9** 1925 c. 21.

*Estates of deceased persons*

27 ..... F15

**Textual Amendments**

**F15** S. 27 repealed by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

**28 Distribution of estate of intestate leaving surviving spouse.**<sup>x5</sup>

- (1) In section 46 of the <sup>M10</sup>Administration of Estates Act 1925—
- (a) in paragraph (i) of subsection (1) (distribution of estate of intestate leaving surviving spouse)—
    - (i) as it has effect as respects persons dying before 1953, for the words “five pounds per cent. per annum”, and
    - (ii) as it has effect as respects persons dying after 1952, for the words “four pounds per cent. per annum”, wherever they occur,there shall be substituted the words “ at such rate as the Lord Chancellor may specify by order ”, and

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- (b) the following subsection shall be inserted after subsection (1) and shall have effect both as respects persons dying before 1953 and after 1952:—

“(1A) The power to make orders under subsection (1) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and any such order may be varied or revoked by a subsequent order made under the Power.”.

- (2) Subsections (2) and (4) of section 47A of that Act (method of calculation of value of life interest of surviving spouse) shall cease to have effect.

- (3) The following subsections shall be inserted after subsection (3) of that section:—

“(3A) The capital value shall be reckoned in such manner as the Lord Chancellor may by order direct, and an order under this subsection may include transitional provisions.

(3B) The power to make orders under subsection (3A) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and any such order may be varied or revoked by a subsequent order made under the power.”.

#### Editorial Information

**X5** The text of ss. 1(1), 4, 5, 11, 12, 17(2), 19(2)(5), 24, 26(1), 28, 29, 32(4) Schs. 3, 5 does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M10** 1925 c. 23.

## PART III

### OTHER PROVISIONS

#### *Scotland*

#### **29 Admission of written statements and reports.** <sup>X6</sup>

[<sup>F16</sup>(1) In section 16 of the <sup>M11</sup>Administration of Justice (Scotland) Act 1933, there shall be substituted for paragraph (e)—

“(e) to provide in any category of causes before the Court, for the admission in lieu of parole evidence of written statements (including affidavits) and reports, on such conditions as may be prescribed.”.]

(2) In section 32(1)(e) of the <sup>M12</sup>Sheriff Courts (Scotland) Act 1971, there shall be substituted for “affidavits” the words “ written statements (including affidavits) and reports ”.

#### Editorial Information

**X6** The text of ss. 1(1), 4, 5, 11, 12, 17(2), 19(2)(5), 24, 26(1), 28, 29, 32(4) Schs. 3, 5 does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1977. (See end of Document for details)*

**Textual Amendments**

**F16** S. 29(1) repealed (S.) and re-enacted (S.) by [Court of Session Act 1988 \(c. 36, SIF 36:1\)](#), s. 52(2), Sch. 2 Pts. I, II

**Marginal Citations**

**M11** 1933 c. 41.  
**M12** 1971 c. 58.

*Northern Ireland*

**30** ..... **F17**

**Textual Amendments**

**F17** S. 30 repealed by [S.I. 1986/595 \(N.I.4\)](#), art. 138, [Sch. 7](#)

*Supplementary*

**31 Financial provision.**

All expenses incurred by any Minister of the Crown in consequence of the provisions of this Act shall be defrayed out of moneys provided by Parliament.

**32 Citation etc.**

(1) This Act may be cited as the Administration of Justice Act 1977.

(2) ..... **F18**

(3) Any reference in this Act to any enactment is a reference to it as amended or applied by or under any other enactment, including this Act.

<sup>x7</sup>(4) The enactments specified in Schedule 5 to this Act (which include enactments which were obsolete or unnecessary before the passing of this Act) shall be repealed to the extent specified in the third column of that Schedule.

(5) The following provisions of this Act shall come into force at the expiration of a period of one month beginning with the date on which it is passed:—

- sections 1 and 2;
- sections 4 to 13;
- section 16;
- section 17(2);
- section 19(4);
- section 21;
- section 22;
- sections 24 to 26;
- section 29;

..... **F19**

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- (6) The provisions of this Act, except section 31 above, this section and the sections mentioned in subsection (5) above, shall come into force on such day as the Lord Chancellor may by order made by statutory instrument appoint.
- (7) An order under subsection (6) above—
- (a) may appoint different days for different provisions and for different purposes; and
  - (b) may make savings from the effect of any provision which it brings into force.
- (8) The following provisions of this Act extend to England and Wales only, namely—
- section 1(1) and Part I of Schedule 1;
  - section 2(1) and Part I of Schedule 2;
  - sections 9 to 22;
  - section 23 and Schedule 4;
  - sections 24 to 28;
  - subsections (4) and (5) above so far as they relate to any enactment which extends to England and Wales only;
  - paragraphs 1, 3 and 10 of Schedule 3.
- (9) The following provisions of this Act extend to Scotland only, namely—
- section 1(2) and Part II of Schedule 1;
  - section 2(2), and in Schedule 2, Part II and paragraph 11;
  - section 29;
  - subsections (4) and (5) above so far as they relate to any enactment which extends to Scotland only.
- (10) ..... F20
- (11) ..... F21
- (12) Subsection (4) above, so far as it relates to any of the court-martial enactments, extends to any territory to which that enactment extends.
- (13) In subsection (12) above “the court-martial enactments” means—
- section 102 of the <sup>M13</sup>Army Act 1955;
  - section 102 of the <sup>M14</sup>Air Force Act 1955; and
  - section 60 of the <sup>M15</sup>Naval Discipline Act 1957.

#### Editorial Information

- X7** The text of ss. 1(1), 4, 5, 11, 12, 17(2), 19(2)(5), 24, 26(1), 28, 29, 32(4) Schs. 3, 5 does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Subordinate Legislation Made

- P1** Power of appointment conferred by s. 32(6) fully exercised; appointed day 1.1.1981 by [S.I. 1980/1981](#)

#### Textual Amendments

- F18** [S. 32\(2\)](#) repealed (31.7.1978) by [Oaths Act 1978 \(c. 19\)](#), [Sch. Pt. I](#)
- F19** Words repealed by [S.I. 1986/595 \(N.I.4\)](#), art. 138, [Sch. 7](#)
- F20** [S. 32\(10\)](#) repealed by [S.I. 1986/595 \(N.I.4\)](#), art. 138, [Sch. 7](#)

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*Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1977. (See end of Document for details)*

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**F21** S. 32(11) repealed by [Employment Protection \(Consolidation\) Act 1978 \(c. 44, SIF 43:1\)](#), s. 159(3), [Sch. 17](#)

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**Marginal Citations**

**M13** 1955 c. 18.

**M14** 1955 c. 19.

**M15** 1957 c. 53.

**Status:**

Point in time view as at 31/01/1997.

**Changes to legislation:**

There are currently no known outstanding effects for the Administration of Justice Act 1977.