



Crown Proceedings Act 1947

1947 CHAPTER 44

An Act to amend the law relating to the civil liabilities and rights of the Crown and to civil proceedings by and against the Crown, to amend the law relating to the civil liabilities of persons other than the Crown in certain cases involving the affairs or property of the Crown, and for purposes connected with the matters aforesaid. [31st July 1947.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I

SUBSTANTIVE LAW.

1 Right to sue the Crown.

Where any person has a claim against the Crown after the commencement of this Act, and, if this Act had not been passed, the claim might have been enforced, subject to the grant of His Majesty's fiat, by petition of right, or might have been enforced by a proceeding provided by any statutory provision repealed by this Act, then, subject to the provisions of this Act, the claim may be enforced as of right, and without the fiat of His Majesty, by proceedings taken against the Crown for that purpose in accordance with the provisions of this Act

2 Liability of the Crown in tort.

- (1) Subject to the provisions of this Act, the Crown shall be subject to all those liabilities in tort to which, if it were a private person of full age and capacity, it would be subject:—
 - (a) in respect of torts committed by its servants or agents ;

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- (b) in respect of any breach of those duties which a person owes to his servants or agents at common law by reason of being their employer; and
- (c) in respect of any breach of the duties attaching at common law to the ownership, occupation, possession or control of property:

Provided that no proceedings shall lie against the Crown by virtue of paragraph (a) of this subsection in respect of any act or omission of a servant or agent of the Crown unless the act or omission would apart from the provisions of this Act have given rise to a cause of action in tort against that servant or agent or his estate.

- (2) Where the Crown is bound by a statutory duty which is binding also upon persons other than the Crown and its officers, then, subject to the provisions of this Act, the Crown shall, in respect of a failure to comply with that duty, be subject to all those liabilities in tort (if any) to which it would be so subject if it were a private person of full age and capacity.
- (3) Where any functions are conferred or imposed upon an officer of the Crown as such either by any rule of the common law or by statute, and that officer commits a tort while performing or purporting to perform those functions, the liabilities of the Crown in respect of the tort shall be such as they would have been if those functions had been conferred or imposed solely by virtue of instructions lawfully given by the Crown.
- (4) Any enactment which negatives or limits the amount of the liability of any Government department or officer of the Crown in respect of any tort committed by that department or officer shall, in the case of proceedings against the Crown under this section in respect of a tort committed by that department or officer, apply in relation to the Crown as it would have applied in relation to that department or officer if the proceedings against the Crown had been proceedings against that department or officer.
- (5) No proceedings shall lie against the Crown by virtue of this section in respect of anything done or omitted to be done by any person while discharging or purporting to discharge any responsibilities of a judicial nature vested in him, or any responsibilities which he has in connection with the execution of judicial process.
- (6) No proceedings shall lie against the Crown by virtue of this section in respect of any act, neglect or default of any officer of the Crown, unless that officer has been directly or indirectly appointed by the Crown and was at the material time paid in respect of his duties as an officer of the Crown wholly out of the Consolidated Fund of the United Kingdom, moneys provided by Parliament, the Road Fund, or any other Fund certified by the Treasury for the purposes of this subsection or was at the material time holding an office in respect of which the Treasury certify that the holder thereof would normally be so paid.

3 Provisions as to industrial property.

- (1) Where after the commencement of this Act any servant or agent of the Crown infringes a patent, or infringes a registered trade mark, or infringes any copyright (including, any copyright in a design subsisting under the Patents and Designs Acts, 1907 to 1946), and the infringement is committed with the authority of the Crown, then, subject to the provisions of this Act, civil proceedings in respect of the infringement shall lie against the Crown.
- (2) Nothing in the preceding subsection or in any other provision of this Act shall affect the rights of any Government department under section twenty-nine or section fifty-

eight A of the Patents and Designs Act, 1907, or the rights of the Minister of Supply under section twelve of the Atomic Energy Act 1946.

- (3) Save as expressly provided by this section, no proceedings shall lie against the Crown by virtue of this Act in respect of the infringement of a patent, in respect of the infringement of a registered trade mark, or in respect of the infringement of any such copyright as is mentioned in subsection (1) of this section.

4 Application of law as to indemnity, contribution, joint and several tortfeasors, and contributory negligence.

- (1) Where the Crown is subject to any liability by virtue of this Part of this Act, the law relating to indemnity and contribution shall be enforceable by or against the Crown in respect of the liability to which it is so subject as if the Crown were a private person of full age and capacity.
- (2) Without prejudice to the effect of the preceding subsection, Part II of the Law Reform (Married Women and Tortfeasors) Act, 1935 (which relates to proceedings against, and contribution between, joint and several tortfeasors) shall bind the Crown.
- (3) Without prejudice to the general effect of section one of this Act, the Law Reform (Contributory Negligence) Act, 1945 (which amends the law relating to contributory negligence) shall bind the Crown.

5 Liability in respect of Crown ships, and &c.

- (1) The provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of ships shall, with any necessary modifications, apply for the purpose of limiting the liability of His Majesty in respect of His Majesty's ships ; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.
- (2) Without prejudice to the provisions of the preceding subsection, where a ship is built at any port or place within His Majesty's dominions, and His Majesty is interested in her by reason of the fact that she is built by or on behalf of or to the order of His Majesty in right of His Government in the United Kingdom, the provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of ships shall, with any necessary modifications, apply for the purpose of limiting the liabilities in respect of that ship of His Majesty, her builders, her owners, and any other persons interested in her ; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.

This subsection shall have effect only in respect of the period from and including the launching of the ship until the time of her completion, and shall not in any event have effect in respect of any period during which His Majesty is not so interested in the ship as aforesaid. In relation to a ship built to the order of His Majesty in right of His Government in the United Kingdom, the time of her completion shall be taken for the purposes of this subsection to be the time when His Majesty, acting in His said right, finally takes delivery of her under the building contract.

- (3) Where any ship has been demised or sub-demised by His Majesty acting in right of His Government in the United Kingdom, then, whether or not the ship is registered for the purposes of the Merchant Shipping Acts, 1894 to 1940, the provisions of those Acts which limit the amount of the liability of the owners of ships shall, in respect of

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the period for which the demise or sub-demise continues, apply, with any necessary modifications, for the purpose of limiting the liabilities in respect of the ship of any person entitled to her by demise or sub-demise ; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.

This subsection shall be deemed always to have had effect.

- (4) Where by virtue of any arrangement between His Majesty and some other person (not being a servant of His Majesty) that other person (hereinafter referred to as "the manager ") is entrusted with the management of any of His Majesty's ships, the provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of ships shall apply for the purpose of limiting the manager's liability in respect of the ship while so entrusted ; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.

This subsection shall be deemed always to have had effect.

- (5) Where for the purposes of any enactment as applied by this section it is necessary to ascertain the tonnage of any ship, and that ship is not registered for the purposes of the Merchant Shipping Acts, 1894 to 1940, the tonnage of the ship shall be taken for the purposes of that enactment to be the tonnage arrived at by :—
- (a) ascertaining her tonnage in accordance with section seventy-seven of the Merchant Shipping Act, 1894, and the Rules contained in the Second Schedule to that Act, or those Rules as modified or altered from time to time under subsection (7) of the said section seventy-seven, and deducting from her tonnage as so ascertained ten per cent. thereof ; or
 - (b) where it is impossible to ascertain her tonnage as provided by paragraph (a) of this subsection, taking her estimated tonnage as certified for the purposes of this paragraph, and deducting from her estimated tonnage as so certified ten per cent. thereof.

Where it is necessary to ascertain the tonnage of a ship in the manner provided by paragraph (b) of this subsection, the Chief Ships Surveyor of the Ministry of Transport, or the officer for the time being discharging the functions of the said Surveyor, shall, upon the direction of the court concerned, and after considering such evidence of the dimensions of the ship as it may be practicable to obtain, estimate what her tonnage would have been found to be if she could have been duly measured for the purpose, and issue a certificate stating her tonnage as so estimated by him.

- (6) For the purposes of this section the expression " ship " has the meaning assigned to it by section seven hundred and forty-two of the Merchant Shipping Act, 1894, but includes also :—
- (a) any vessel which is a ship as defined by section four of the Merchant Shipping (Liability of Shipowners) Act, 1898 ; and
 - (b) every description of lighter, barge or like vessel used in navigation in Great Britain, however propelled, so, however, that a vessel used exclusively in non-tidal waters, other than harbours, shall not for the purposes of this paragraph be deemed to be used in navigation."
- (7) Any reference in this section to. the provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of ships shall be construed as including a reference to any provision of those Acts which negatives the liability

of the owner of a ship, and accordingly any reference in this section to limiting the liability of any person shall be construed as including a reference to negating his liability.

- (8) Relief shall not be available by virtue of the Merchant Shipping (Liability of Shipowners) Act, 1898, in any case in which it is available by virtue of this section.

6 Application to Crown ships of rules as to division of loss, and &c.

The provisions of sections one, two and three of the Maritime Conventions Act, 1911 (which relate to the apportionment of damage or loss caused by vessels) shall apply in the case of vessels belonging to His Majesty as they apply in the case of other vessels.

7 Liability in respect of Crown docks, harbours, and &c.

- (1) It is hereby declared that the provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of docks and canals, and of harbour and conservancy authorities, apply for the purpose of limiting the liability of His Majesty in His capacity as the owner of any dock or canal, or in His capacity as a harbour or conservancy authority, and that all the relevant provisions of the said Acts have effect in relation to His Majesty accordingly.
- (2) In this section the expressions " dock", " harbour", " owner ", " harbour authority " and " conservancy authority " have respectively the same meanings as they have for the purposes of section two of the Merchant Shipping (Liability of Shipowners and others) Act, 1900.
- (3) In this section references to His Majesty include references to any Government department and to any officer of the Crown in his capacity as such.

8 Salvage claims against the Crown and Crown rights to salvage.

- (1) Subject to the provisions of this Act, the law relating to civil salvage, whether of life or property, except sections five hundred and fifty-one to five hundred and fifty-four of the Merchant Shipping Act, 1894, or any corresponding provisions relating to aircraft, shall apply in relation to salvage services rendered after the commencement of this Act in assisting any of His Majesty's ships or aircraft, or in saving life therefrom, or in saving any cargo or apparel belonging to His Majesty in right of His Government in the United Kingdom, in the same manner as if the ship, aircraft, cargo or apparel belonged to a private person.
- (2) Where after the commencement of this Act salvage services are rendered by or on behalf of His Majesty, whether in right of His Government in the United Kingdom or otherwise, His Majesty shall be entitled to claim salvage in respect of those services to the same extent as any other salvor, and shall have the same rights and remedies in respect of those services as any other salvor.

9 Liability in connection with postal packets.

- (1) Subject as hereinafter provided, no proceedings in tort shall lie against the Crown for anything done or omitted to be done in relation to a postal packet by any person while employed as a servant or agent of the Crown, or for anything done or omitted to be done in relation to a telephonic communication by any person while so. employed;

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nor shall any officer of the Crown be subject, except at the suit of the Crown, to any civil liability for any of the matters aforesaid.

- (2) Notwithstanding the provisions of section thirteen of the Post Office Act, 1908, proceedings shall lie against the Crown under this subsection in respect of loss of or damage to a registered inland postal packet, not being a telegram, in so far as the loss or damage is due to any wrongful act done or any neglect or default committed by a person employed as a servant or agent of the Crown while performing or purporting to perform his functions as such in relation to the receipt, carriage, delivery or other dealing with the packet:

Provided that:—

- (a) no proceedings shall be under this subsection in respect of any postal packet registered before the commencement of this Act;
- (b) the amount recoverable in any proceedings under this subsection shall not exceed the market value of the packet in question (excluding the market value of any message or information which it bears) at the time when the cause of action arises;
- (c) the amount recoverable in any such proceedings shall not in any event exceed the maximum amount which, under the Post Office Regulations, is available for compensating the persons aggrieved having regard to the fee paid in respect of the registration of the packet; and
- (d) the Crown shall not be liable under this subsection in respect of any packet unless such conditions as are prescribed by Post Office Regulations in relation to registered inland postal packets have been complied with in relation to that packet.

For the purposes of any proceedings under this subsection, it shall be presumed, until the contrary is shown on behalf of the Crown, that the loss of or damage to the packet was due to some wrongful act done, or some neglect or default committed, by a person employed as a servant or agent of the Crown while performing or purporting to perform his functions as such in relation to the receipt, carriage, delivery or other dealing with the packet.

- (3) No relief shall be available under subsection (2) of this section except upon a claim by the sender or the addressee of the packet in question; and the sender or addressee of the packet shall be entitled to claim any relief available under the said subsection in respect of the packet, whether or not he is the person damaged by the injury complained of, and to give a good discharge in respect of all claims in respect of the packet under the said subsection:

Provided that where the court is satisfied, upon an application by any person who is not the sender or addressee of the packet, that the sender and the addressee are unable or unwilling to enforce their remedies in respect of the packet under the said subsection, the court may, upon such terms as to security for costs and otherwise as the court thinks just, allow that other person to bring proceedings under the said subsection in the name of the sender or the addressee of the packet.

Any reference in this subsection to the sender or addressee of the packet includes a reference to his personal representatives.

- (4) Where by virtue of the last preceding subsection any person recovers any money or property which, apart from that subsection, would have been recoverable by some other person, the money or property so recovered shall be held on trust for that person.

- (5) Post Office Regulations may be made for prescribing the conditions to be observed for the purposes of this section in relation to registered inland postal-packets.
- (6) No claim for salvage shall lie against the Crown by virtue of section eight of this Act in respect of anything done to, or suffered in relation to, any postal packets while they are being carried by sea or by air.
- (7) In this section :—
- The expression " postal packet " has, subject as hereinafter provided, the same meaning as in the Post Office Act, 1908, and accordingly includes a telegram ;
- The expression " Post Office Regulations " has the same meaning as in the Post Office Act, 1908;
- The expression " inland postal packet " means a postal packet which is posted in the United Kingdom, the Channel Islands or the Isle of Man for delivery, at any place in the United Kingdom, the Channel Islands or the Isle of Man, to the person to whom it is addressed.
- The expression " sender ", in relation to a postal packet, has such meaning as may be assigned to it by Post Office Regulations.
- (8) Any reference in this section to a postal packet shall be construed as including a reference to the contents of such a packet.

10 Provisions relating to the armed forces.

- (1) Nothing done or omitted to be done by a member of the armed forces of the Crown while on duty as such shall subject either him or the Crown to liability in tort for causing the death of another person, or for causing personal injury to another person, in so far as the death or personal injury is due to anything suffered by that other person while he is a member of the armed forces of the Crown if—
- (a) at the time when that thing is suffered by that other person, he is either on duty as a member of the armed forces of the Crown or is, though not on duty as such, on any land, premises, ship, aircraft or vehicle for the time being used for the purposes of the armed forces of the Crown; and
- (b) the Minister of Pensions certifies that his suffering that thing has been or will be treated as attributable to service for the purposes of entitlement to an award under the Royal Warrant, Order in Council or Order of His Majesty relating to the disablement or death of members of the force of which he is a member:
- Provided that this subsection shall not exempt a member of the said forces from liability in tort in any case in which the court is satisfied that the act or omission was not connected with the execution of his duties as a member of those forces.
- (2) No proceedings in tort shall lie against the Crown for death or personal injury due to anything suffered by a member of the armed forces of the Crown if—
- (a) that thing is suffered by him in consequence of the nature or condition of any such land, premises, ship, aircraft or vehicle as aforesaid, or in consequence of the nature or condition of any equipment or supplies used for the purposes of those forces ; and
- (b) the Minister of Pensions certifies as mentioned in the preceding subsection ;
- nor shall any act or omission of an officer of the Crown subject him to liability in tort for death or personal injury, in so far as the death or personal injury is due to anything

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suffered by a member of the armed forces of the Crown being a thing as to which the conditions aforesaid are satisfied.

- (3) The Admiralty or a Secretary of State, if satisfied that it is the fact:—
- (a) that a person was or was not on any particular occasion on duty as a member of the armed forces of the Crown; or
 - (b) that at any particular time any land, premises, ship, aircraft, vehicle, equipment or supplies was or was not, or were or were not, used for the purposes of the said forces ;

may issue a certificate certifying that to be the fact ; and any such certificate shall, for the purposes of this section, be conclusive as to the fact which it certifies.

11 Saving in respect of acts done under prerogative and statutory powers.

- (1) Nothing in Part I of this Act shall extinguish or abridge any powers or authorities which, if this Act had not been passed, would have been exercisable by virtue of the prerogative of the Crown, or any powers or authorities conferred on the Crown by any statute, and, in particular, nothing in the said Part I shall extinguish or abridge any powers or authorities exercisable by the Crown, whether in time of peace or of war, for the purpose of the defence of the realm or of training, or maintaining the efficiency of, any of the armed forces of the Crown.
- (2) Where in any proceedings under this Act it is material to determine whether anything was properly done or omitted to be done in the exercise of the prerogative of the Crown, the Admiralty or a Secretary of State may, if satisfied that the act or omission was necessary for any such purpose as is mentioned in the last preceding subsection, issue a certificate to the effect that the act or omission was necessary for that purpose ; and the certificate shall, in those proceedings, be conclusive as to the matter so certified.

12 Transitional provisions.

- (1) When this Act comes into operation, the preceding provisions of this Part of this Act (except subsections (3) and (4) of section five thereof and any provision which is expressly related to the commencement of this Act) shall be deemed to have had effect as from the beginning of the thirteenth day of February, nineteen hundred and forty-seven:

Provided that where by virtue of this subsection proceedings are brought against the Crown in respect of a tort alleged to have been committed on or after the said thirteenth day of February and before the commencement of this Act, the Crown may rely upon the appropriate provisions of the law relating to the limitation of time for bringing proceedings as if this Act had at all material times been in force.

- (2) Where any civil proceedings brought before the commencement of this Act have not been finally determined, and the court for the time being seized of those proceedings is of opinion that having regard to the provisions of this section the Crown ought to be made a party to the proceedings for the purpose of disposing completely and effectually of the questions involved in the cause or matter before the court, the court may order that the Crown be made a party thereto upon such terms, if any, as the court thinks just, and may make such consequential orders as the court thinks expedient.

PART II

JURISDICTION AND PROCEDURE.

The High Court.

13 Civil proceedings in the High Court.

Subject to the provisions of this Act, all such civil proceedings by or against the Crown as are mentioned in the First Schedule to this Act are hereby abolished, and all civil proceedings by or against the Crown in the High Court shall be instituted and proceeded with in accordance with rules of court and not otherwise.

In this section the expression " rules of court " means, in relation to any claim against the Crown in the High Court which falls within the jurisdiction of that court as a prize court, rules of court made under section three of the Prize Courts Act, 1894.

14 Summary applications to High Court in certain revenue matters.

- (1) Subject to and in accordance with rules of court, the Crown may apply in a summary manner to the High Court:—
 - (a) for the furnishing of information required to be furnished by any person under the enactments relating to death duties ;
 - (b) for the delivery of accounts and payment of duty under the said enactments by persons accountable for or chargeable with such duty and by persons who have taken possession of and administered the estates of deceased persons without obtaining probate or letters of administration ;
 - (c) for the delivery of an account under section two of the Stamp Duties Management Act, 1891, or under that section as amended or applied by any subsequent enactment;
 - (d) for the payment of sums improperly withheld or retained within the meaning of the said section two.
- (2) Subject to and in accordance with rules of court, the Crown may apply in a summary manner to the High Court:—
 - (a) for the payment of duty under the enactments relating to excise - duties ;
 - (b) for the delivery of any accounts required to be delivered, or the furnishing of any information required to be furnished, by the enactments relating to excise duties or by any regulations relating to such duties ;
 - (c) for the payment of tax under the enactments relating to purchase tax ;
 - (d) for the delivery of any accounts, the production of any books, or the furnishing of any information, required to be delivered, produced or furnished under the enactments relating to purchase tax.

County Courts.

15 Civil proceedings in the county court.

- (1) Subject to the provisions of this Act, and to any enactment limiting the jurisdiction of a county court (whether by reference to the subject matter of the proceedings to be

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brought or the amount sought to be recovered in the proceedings or otherwise) any civil proceedings against the Crown may be instituted in a county court.

- (2) Any proceedings by or against the Crown in a county court shall be instituted and proceeded with in accordance with county court rules and not otherwise.

General.

16 Interpleader.

The Crown may obtain relief by way of interpleader proceedings, and may be made a party to such proceedings, in the same manner in which a subject may obtain relief by way of such proceedings or be made a party thereto, and may be made a party to such proceedings notwithstanding that the application for relief is made by a sheriff or other like officer ; and all rules of court and county court rules relating to interpleader proceedings shall, subject to the provisions of this Act, have effect accordingly.

17 Parties to proceedings.

- (1) The Treasury shall publish a list specifying the several Government departments which are authorised departments for the purposes of this Act, and the name and address for service of the person who is, or is acting for the purposes of this Act as, the solicitor for each such department, and may from time to time amend or vary the said

Any document purporting to be a copy of a list published under this section and purporting to be printed under the superintendence or the authority of His Majesty's Stationery Office shall in any legal proceedings be received as evidence for the purpose of establishing what departments are authorised departments for the purposes of this Act, and what person is, or is acting for the purposes of this Act as, the solicitor for any such department.

- (2) Civil proceedings by the Crown may be instituted either by an authorised Government department in its own name, whether that department was or was not at the commencement of this Act authorised to sue, or by the Attorney General.
- (3) Civil proceedings against the Crown shall be instituted against the appropriate authorised Government department, or, if none of the authorised Government departments is appropriate or the person instituting the proceedings has any reasonable doubt whether any and if so which of those departments is appropriate, against the Attorney General.
- (4) Where any civil proceedings against the Crown are instituted against the Attorney General, an application may at any stage of the proceedings be made to the court by or on behalf of the Attorney General to have such of the authorised Government departments as may be specified in the application substituted for him as defendant to the proceedings; and where any such proceedings are brought against an authorised Government department, an application may at any stage of the proceedings be made to the court on behalf of that department to have the Attorney General or such of the authorised Government departments as may be specified in the application substituted for the applicant as the defendant to the proceedings.

Upon any such application the court may if it thinks fit make an order granting the application on such terms as the court thinks just; and on such an order being made the proceedings shall continue as if they had been commenced against the department

specified in that behalf in the order, or, as the case may require, against the Attorney General.

- (5) No proceedings instituted in accordance with this Part of this Act by or against the Attorney General or an authorised Government department shall abate or be affected by any change in the person holding the office of Attorney General or in the person or body of persons constituting the department.

18 Service of documents.

All documents required to be served on the Crown for the purpose of or in connection with any civil proceedings by or against the Crown shall, if those proceedings are by or against an authorised Government department, be served on the solicitor, if any, for that department, or the person, if any, acting for the purposes of this Act as solicitor for that department, or if there is no such solicitor and no person so acting, or if the proceedings are brought by or against the Attorney General, on the Solicitor for the affairs of His Majesty's Treasury.

19 Venue and related matters.

- (1) In any case in which civil proceedings against the Crown in the High Court are instituted by the issue of a writ out of a district registry the Crown may enter an appearance either in the district registry or in the central office of the High Court, and if an appearance is entered in the central office all steps in relation to the proceedings up to trial shall be taken at the Royal Courts of Justice.
- (2) The trial of any civil proceedings by or against the Crown in the High Court shall be held at the Royal Courts of Justice unless the court, with the consent of the Crown, otherwise directs.

Where the Crown refuses its consent to a direction under this subsection the court may take account of the refusal in exercising its powers in regard to the award of costs.

- (3) Nothing in this section shall prejudice the right of the Crown to demand a local venue for the trial of any proceedings in which the Attorney General has waived his right to a trial at bar.

20 Removal and transfer of proceedings.

- (1) If in a case where proceedings are instituted against the Crown in a county court an application in that behalf is made by the Crown to the High Court, and there is produced to the court a certificate of the Attorney General to the effect that the proceedings may involve an important question of law, or may be decisive of other cases arising out of the same matter, or are for other reasons more fit to be tried in the High Court, the proceedings shall be removed into the High Court.

Where any proceedings have been removed into the High Court on the production of such a certificate as aforesaid, and it appears to the court by whom the proceedings are tried that the removal has occasioned additional expense to the person by whom the proceedings are brought, the court may take account of the additional expense so occasioned in exercising its powers in regard to the award of costs.

- (2) Without prejudice to the rights of the Crown under the preceding provisions of this section, all rules of law and enactments relating to the removal or transfer of

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proceedings from a county court to" the High Court, or the transfer of proceedings from the High Court to a county court, shall apply in relation to proceedings against the Crown :

Provided that:—

- (a) an order for the transfer to a county court of any proceedings against the Crown in the High Court shall not be made without the consent of the Crown ; and
- (b) the duty of a judge to make an order under section forty-four of the County Courts Act, 1934, for the transfer to the High Court of proceedings commenced against the Crown in a county court shall not be conditional upon the giving of security by the Crown.

21 Nature of relief.

- (1) In any civil proceedings by or against the Crown the court shall, subject to the provisions of this Act, have power to make all such orders as it has power to make in proceedings between subjects, and otherwise to give such appropriate relief as the case may require :

Provided that:—

- (a) where in any proceedings against the Crown any such relief is sought as might in proceedings between subjects be granted by way of injunction or specific performance, the court shall not grant an injunction or make an order for specific performance, but may in lieu thereof make an order declaratory of the rights of the parties ; and
 - (b) in any proceedings against the Crown for the recovery of land or other property the court shall not make an order for the recovery of the land or the delivery of the property, but may in lieu thereof make an order declaring that the plaintiff is entitled as against the Crown to the land or property or to the possession thereof.
- (2) The court shall not in any civil proceedings grant any injunction or make any order against an officer of the Crown if the effect of granting the injunction or making the order would be to give any relief against the Crown which could not have been obtained in proceedings against the Crown.

22 Appeals and stay of execution.

Subject to the provisions of this Act, all enactments, rules of court and county court rules relating to appeals and stay of execution shall, with any necessary modifications, apply to civil proceedings by or against the Crown as they apply to proceedings between subjects.

23 Scope of Part II.

- (1) Subject to the provisions of this section, any reference in this Part of this Act to civil proceedings by the Crown shall be construed as a reference to the following proceedings only:—
 - (a) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or

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vindicated or obtained by any such proceedings as are mentioned in paragraph I of the First Schedule to this Act;

(b) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by an action at the suit of any Government department or any officer of the Crown as such ;

(c) all such proceedings as the Crown is entitled to bring by virtue of this Act; and the expression " civil proceedings by or against the Crown " shall be construed accordingly.

(2) Subject to the provisions of this section, any reference in this Part of this Act to civil proceedings against the Crown shall be construed as a reference to the following' proceedings only:—

(a) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by any such proceedings as are mentioned in paragraph 2 of the First Schedule to this Act ;

(b) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by an action against the Attorney General, any Government department, or any officer of the Crown as such ; and

(c) all such proceedings as any person is entitled to bring against the Crown by virtue of this Act;

and the expression " civil proceedings by or against the Crown " shall be construed accordingly.

(3) Notwithstanding anything in the preceding provisions of this section, the provisions of this Part of this Act shall not have effect with respect to any of the following proceedings, that is to say:—

(a) proceedings brought by the Attorney General on the relation of some other person;

(b) proceedings by or against the Public Trustee ;

(c) proceedings by or against the Charity Commissioners;

(d) proceedings under the Acts relating to charitable trusts by or against the Attorney General;

(e) proceedings relating to educational charities by or against the Minister of Education ;

(f) proceedings by or against the Registrar of the Land Registry or any officers of that registry.

(4) Subject to the provisions of any Order in Council made under the provisions hereinafter contained, this part of this Act shall not affect proceedings initiated in any court other than the High Court or a county court.

Status: This is the original version (as it was originally enacted).

PART III

JUDGMENTS AND EXECUTION.

24 Interest on debts, damages and costs.

- (1) Section seventeen of the Judgments Act, 1838 (which provides that a judgment debt shall carry interest) shall apply to judgment debts due from or to the Crown.
- (2) Where any costs are awarded to or against the Crown in the High Court, interest shall be payable upon those costs unless the court otherwise orders, and any interest so payable shall be at the same rate as that at which interest is payable upon judgment debts due from or to the Crown.
- (3) Section three of the Law Reform (Miscellaneous Provisions) Act, 1934 (which empowers courts of record to award interest on debts and damages) shall apply to judgments given in proceedings by and against the Crown.
- (4) This section shall apply both in relation to proceedings pending at the commencement of this Act and in relation to proceedings instituted thereafter.

25 Satisfaction of orders against the Crown.

- (1) Where in any civil proceedings by or against the Crown, or in any proceedings on the Crown side of the King's Bench Division, or in connection with any arbitration to which the Crown is a party, any order (including an order for costs) is made by any court in favour of any person against the Crown or against a Government department or against an officer of the Crown as such, the proper officer of the court shall, on an application in that behalf made by or on behalf of that person at any time after the expiration of twenty-one days from the date of the order or, in case the order provides for the payment of costs and the costs require to be taxed, at any time after the costs have been taxed, whichever is the later, issue to that person a certificate in the prescribed form containing particulars of the order:

Provided that, if the court so directs, a separate certificate shall be issued with respect to the costs (if any) ordered to be paid to the applicant.

- (2) A copy of any certificate issued under this section may be served by the person in whose favour the order is made upon the person for the time being named in the record as the solicitor, or as the person acting as solicitor, for the Crown or for the Government department or officer concerned.
- (3) If the order provides for the payment of any money by way of damages or otherwise, or of any costs, the certificate shall state the amount so payable, and the appropriate Government department shall, subject as hereinafter provided, pay to the person entitled or to his solicitor the amount appearing by the certificate to be due to him together with the interest, if any, lawfully due thereon :

Provided that the court by which any such order as aforesaid is made or any court to which an appeal against the order lies may direct that, pending an appeal or otherwise, payment of the whole of any amount so payable, or any part thereof, shall be suspended, and if the certificate has not been issued may order any such directions to be inserted therein.

- (4) Save as aforesaid no execution or attachment or process in the nature thereof shall be issued out of any court for enforcing payment by the Crown of any such money or costs as aforesaid, and no person shall be individually liable under any order for the payment by the Crown, or any Government department, or any officer of the Crown as such, of any such money or costs.
- (5) This section shall apply both in relation to proceedings pending at the commencement of this Act and in relation to proceedings instituted thereafter.

26 Execution by the Crown.

- (1) Subject to the provisions of this Act, any order made in favour of the Crown against any person in any civil proceedings to which the Crown is a party may be enforced in the same manner as an order made in an action between subjects, and not otherwise.

This subsection shall apply both in relation to proceedings pending at the commencement of this Act and in relation to proceedings instituted thereafter.

- (2) Sections four and five of the Debtors Act, 1869 (which provide respectively for the abolition of imprisonment for debt, and for saving the power of committal in case of small debts), shall apply to sums of money payable and debts due to the Crown :

Provided that for the purpose of the application of the said section four to any sum of money payable or debt due to the Crown, the section shall have effect as if there were included among the exceptions therein mentioned default in payment of any sum payable in respect of death duties or purchase tax.

- (3) Nothing in this section shall affect any procedure which immediately before the commencement of this Act was available for enforcing an order made in favour of the Crown in proceedings brought by the Crown for the recovery of any fine or penalty, or the forfeiture or condemnation of any goods, or the forfeiture of any ship or any share in a ship.

27 Attachment of moneys payable by the Crown.

- (1) Where any money is payable by the Crown to some person who, under any order of any court, is liable to pay any money to any other person, and that other person would, if the money so payable by the Crown were money payable by a subject, be entitled under rules of court to obtain an order for the attachment thereof as a debt due or accruing due, or an order for the appointment of a sequestrator or receiver to receive the money on his behalf, the High Court may, subject to the provisions of this Act and in accordance with rules of court, make an order restraining the first-mentioned person from receiving that money and directing payment thereof to that other person, or to the sequestrator or receiver:

Provided that no such order shall be made in respect of:—

- (a) any wages or salary payable to any officer of the Crown as such;
 - (b) any money which is subject to the provisions of any enactment prohibiting or restricting assignment or charging or taking in execution ; or
 - (c) any money payable by the Crown to any person on account of a deposit in the Post Office Savings Bank.
- (2) The provisions of the preceding subsection shall, so far as they relate to forms of relief falling within the jurisdiction of a county court, have effect in relation to county courts

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as they have effect in relation to the High Court, but with the substitution of a reference to county court rules for any reference in the said subsection to rules of court.

PART IV

MISCELLANEOUS AND SUPPLEMENTAL.

Miscellaneous.

28 Discovery.

- (1) Subject to and in accordance with rules of court and county court rules :—
- (a) in any civil proceedings in the High Court or a county court to which the Crown is a party, the Crown may be required by the court to make discovery of documents and produce documents for inspection ; and
 - (b) in any such proceedings as aforesaid, the Crown may be required by the court to answer interrogatories :

Provided that this section shall be without prejudice to any rule of law which authorises or requires the withholding of any document or the refusal to answer any question on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest.

Any order of the court made under the powers conferred by paragraph (b) of this subsection shall, direct by what officer of the Crown the interrogatories are to be answered.

- (2) Without prejudice to the proviso to the preceding subsection, any rules made for the purposes of this section shall be such as to secure that the existence of a document will not be disclosed if, in the opinion of a Minister of the Crown, it would be injurious to the public interest to disclose the existence thereof.

29 Exclusion of proceedings in rem against the Crown.

- (1) Nothing in this Act shall authorise proceedings in rem in respect of any claim against the Crown, or the arrest, detention or sale of any of His Majesty's ships or aircraft, or of any cargo or other property belonging to the Crown, or give to any person any lien on any such ship, aircraft, cargo or other property.
- (2) Where proceedings in rem have been instituted in the High Court or in a county court against any such ship, aircraft, cargo or other property, the court may, if satisfied, either on an application by the plaintiff for an order under this subsection or an application by the Crown to set aside the proceedings, that the proceedings were so instituted by the plaintiff in the reasonable belief that the ship, aircraft, cargo or other property did not belong to the Crown, order that the proceedings shall be treated as if they were in personam duly instituted against the Crown in accordance with the provisions of this Act, or duly instituted against any other person whom the court regards as the proper person to be sued in the circumstances, and that the proceedings shall continue accordingly.

Any such order may be made upon such terms, if any, as the court thinks just; and where the court makes any such order it may make such consequential orders as the court thinks expedient.

30 Limitation of actions.

- (1) Section eight of the Maritime Conventions Act, 1911 (which relates to the limitation of actions in respect of damage or loss caused to or by vessels and the limitation of actions in respect of salvage services) shall except in the case of proceedings in respect of any alleged fault of a ship of war or a ship for the time being appropriated to the service of the armed forces of the Crown or to the service of the Post Office, apply in the case of His Majesty's ships as it applies in the case of other vessels :

Provided that the said section eight, as applied by this section, shall have effect as if the words from " and shall, if satisfied " to the end of the said section eight were omitted therefrom.

- (2) Subject to the provisions of the preceding subsection, nothing in this Act shall prejudice the right of the Crown to rely upon the law relating to the limitation of time for bringing proceedings against public authorities.
- (3) In this section the expression " ship " includes any boat or other description of vessel used in navigation, and the expression " His Majesty's ships " shall be construed accordingly.

31 Application to the Crown of certain statutory provisions.

- (1) This Act shall not prejudice the right of the Crown to take advantage of the provisions of an Act of Parliament although not named therein ; and it is hereby declared that in any civil proceedings against the Crown the provisions of any Act of Parliament which could, if the proceedings were between subjects, be relied upon by the defendant as a defence to the proceedings, whether in whole or in part, or otherwise, may, subject to any express provision to the contrary, be so relied upon by the Crown.
- (2) Section six of the Debtors Act, 1869 (which empowers the court in certain circumstances to order the arrest of- a defendant about to quit England) shall, with any necessary modifications, apply to civil proceedings in the High Court by the Crown.

32 No abatement on demise of Crown.

No claim by or against the Crown, and no proceedings for the enforcement of any such claim, shall abate or be affected by the demise of the Crown.

33 Abolition of certain writs.

No writ of extent or of diem clausit extremum shall issue after the commencement of this Act.

34 Proceedings in courts other than the High Court and county courts.

- (1) His Majesty may by Order in Council make such provision as appears to him to be expedient with respect to civil proceedings by or against the Crown in any court not being the High Court or a county court.

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- (2) An Order in Council made under this section may in particular—
- (a) define the jurisdiction of the court to which the Order relates in civil proceedings by or against the Crown ; and
 - (b) apply, in relation to civil proceedings by or against the Crown in the said court, any provisions of this Act which would not otherwise apply in relation to those proceedings with such additions exceptions and modifications as appear to His Majesty to be expedient.
- (3) The provisions of any such Order shall have effect notwithstanding any provision made by or under any enactment with respect to the court in question; and any such Order may provide for amending or revoking any provision so made as aforesaid.
- (4) An Order in Council made under this section may be varied or revoked by a further Order in Council made by His Majesty thereunder.
- (5) An Order in Council under this section shall be laid before Parliament as soon as may be after it is made, and, if either House of Parliament, within the next twenty-eight days on which that House has sat after such an Order is laid before it, resolves that the Order be annulled, the Order shall thereupon cease to have effect except as respects things previously done or omitted to be done, without prejudice, however, to the making of a new Order.

Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, such an Order shall be deemed not to be a statutory rule to which that section applies.

Supplemental.

35 Rules of court and county court rules.

- (1) Any power to make rules of court or county court rules shall include power to make rules for the purpose of giving effect to the provisions of this Act, and any such rules may contain provisions to have effect in relation to any proceedings by or against the Crown in substitution for or by way of addition to any of the provisions of the rules applying to proceedings between subjects.
- (2) Provision shall be made by rules of court and county court rules with respect to the following matters:—
- (a) for providing for service of process, or notice thereof, in the case of proceedings by the Crown against persons, whether British subjects or not, who are not resident in in the United Kingdom ;
 - (b) for securing that where any civil proceedings are brought against the Crown in accordance with the provisions of this Act the plaintiff shall, before the Crown is required to take any step in the proceedings, provide the Crown with such information as the Crown may reasonably require as to the circumstances in which-it is alleged that the liability of the Crown has arisen and as to the departments and officers of the Crown concerned;
 - (c) for providing that in the case of proceedings against the Crown the plaintiff shall not enter judgment against the Crown in default of appearance or pleading without the leave of the court to be obtained on an application of which notice has been given to the Crown ;

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- (d) for excepting proceedings brought against the Crown from the operation of any rule of court providing for summary judgment without trial, and for enabling any such proceedings to be put in proper cases into any special list which may be kept for the trial of short-causes in which leave to defend is given under any such rule of court as aforesaid;
 - (e) for authorising the Crown to deliver interrogatories without the leave of a court in any proceedings for the enforcement of any right for the enforcement of which proceedings by way of English information might have been taken if this Act had not been passed, so, however, that the Crown shall not be entitled to deliver any third or subsequent interrogatories without the leave of the court;
 - (f) for enabling evidence to be taken on commission in proceedings by or against the Crown;
 - (g) for providing :—
 - (i) that a person shall not be entitled to avail himself of any set-off or counterclaim in any proceedings by the Crown for the recovery of taxes, duties or penalties, or to avail himself in proceedings of any other nature by the Crown of any set-off or counterclaim arising out of a right or claim to repayment in respect of any taxes, duties or penalties;
 - (ii) that a person shall not be entitled without the leave of the court to avail himself of any set-off or counterclaim in any proceedings by the Crown if either the subject matter of the set-off or counterclaim does not relate to the Government department in the name of which the proceedings are brought or the proceedings are brought in the name of the Attorney General;
 - (iii) that the Crown, when sued in the name of a Government department, shall not, without the leave of the court, be entitled to avail itself of any set-off or counterclaim if the subject matter thereof does not relate to that department; and
 - (iv) that the Crown, when sued in the name of the Attorney General, shall not be entitled to avail itself of any set-off or counterclaim without the leave of the court.
- (3) Provision may be made by rules of court for regulating any appeals to the High Court, whether by way of case stated or otherwise, under enactments relating to the revenue, and any rules made under this subsection may revoke any enactments or rules in force immediately before the commencement of this Act so far as they regulate any such appeals, and may make provision for any matters for which provision was made by any enactments or rules so in force.

36 Pending proceedings.

Save as otherwise expressly provided, the provisions of this Act shall not affect proceedings by or against the Crown which have been instituted before the commencement of this Act; and for the purposes of this section proceedings against the Crown by petition of right shall be deemed to have been so instituted if a petition of right with respect to the matter in question has been left with a Secretary of State for submission to His Majesty before the commencement of this Act.

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37 Financial provisions.

- (1) Any expenditure incurred by or on behalf of the Crown in right of His Majesty's Government in the United Kingdom by reason of the passing of this Act shall be defrayed out of moneys provided by Parliament.
- (2) Any sums payable to the Crown in right of His Majesty's Government in the United Kingdom by reason of the passing of this Act shall be paid into the Exchequer.

38 Interpretation.

- (1) Any reference in this Act to the provisions of this Act shall, unless the context otherwise requires, include a reference to rules of court or county court rules made for the purposes of this Act.
- (2) In this Act, except in so far as the context otherwise requires or it is otherwise expressly provided, the following expressions have the meanings hereby respectively assigned to them, that is to say:—
 - " Agent ", when used in relation to the Crown, includes an independent contractor employed by the Crown ;
 - " Civil proceedings " includes proceedings in the High Court or the county court for the recovery of fines or penalties, but does not include proceedings on the Crown side of the King's Bench Division ;
 - " His Majesty's aircraft " does not include aircraft belonging to His Majesty otherwise than in right of His Government in the United Kingdom ;
 - " His Majesty's ships " means ships of which the beneficial interest is vested in His Majesty or which are registered as Government ships for the purposes of the Merchant Shipping Acts, 1894 to 1940, or which are for the time being demised or subdemised to or in the exclusive possession of the Crown, except that the said expression does not include any ship in which His Majesty is interested otherwise than in right of His Government in the United Kingdom unless that ship is for the time being demised or subdemised to His Majesty in right of His said Government or in the exclusive possession of His Majesty in that right;
 - " Officer ", in relation to the Crown, includes any servant of His Majesty, and accordingly (but without prejudice to the generality of the foregoing provision) includes a Minister of the Crown ;
 - " Order " includes a judgment, decree, rule, award or declaration ;
 - " Prescribed " means prescribed by rules of court or county court rules, as the case may be ;
 - " Proceedings against the Crown " includes a claim by way of set-off or counterclaim raised in proceedings by the Crown;
 - " Ship " has the meaning assigned to it by section seven hundred and forty-two of the Merchant Shipping Act, 1894:
 - " Statutory duty " means any duty imposed by or under any Act of Parliament.
- (3) Any reference in this Act to His Majesty in His private capacity shall be construed as including a reference to His Majesty in right of His Duchy of Lancaster and to the Duke of Cornwall.
- (4) Any reference in Parts III or IV of this Act to civil proceedings by or against the Crown, or to civil proceedings to which the Crown is a party, shall be construed as including

a reference to civil proceedings to which the Attorney General, or any Government department, or any officer of the Crown as such is a party :

Provided that the Crown shall not for the purposes of Parts III and IV of this Act be deemed to be a party to any proceedings by reason only that they are brought by the Attorney General upon the relation of some other person.

- (5) Any reference in this Act to the armed forces of the Crown shall be construed as including a reference to the following forces:—
- (a) the Women's Royal Naval Service ;
 - (b) the Queen Alexandra's Royal Naval Nursing Service ; and
 - (c) any other organisation established under the control of the Admiralty, the Army Council or the Air Council.
- (6) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any other enactment, including this Act.

39 Repeals, and &c.

- (1) The enactments set out in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (2) For subsection (1) of section twenty-six of the Ministry of Transport Act, 1919, there shall be substituted the following-subsection :—
- “(1) The Minister of Transport may for all purposes be described by that name.”

40 Savings.

- (1) Nothing in this Act shall apply to proceedings by or against, or authorise proceedings in tort to be brought against, His Majesty in His private capacity.
- (2) Except as therein otherwise expressly provided, nothing in this Act shall:—
- (a) affect the law relating to prize salvage, or apply to proceedings in causes or matters within the jurisdiction of the High Court as a prize court or to any criminal proceedings ; or
 - (b) authorise proceedings to be taken against the Crown under or in accordance with this Act in respect of any alleged liability of the Crown arising otherwise than in respect of His Majesty's Government in the United Kingdom, or affect proceedings against the Crown in respect of any such alleged liability as aforesaid ; or
 - (c) affect any proceedings by the Crown otherwise than in right of His Majesty's Government in the United Kingdom ; or
 - (d) subject the Crown to any greater liabilities in respect of the acts or omissions of any independent contractor employed by the Crown than those to which the Crown would be subject in respect of such acts or omissions if it were a private person ; or
 - (e) subject the Crown, in its capacity as a highway authority, to any greater liability than that to which a local authority is subject in that capacity; or
 - (f) affect any rules of evidence or any presumption relating to the extent to which the Crown is bound by any Act of Parliament; or
 - (g) affect any right of the Crown to demand a trial at bar or to control or otherwise intervene in proceedings affecting its rights, property or profits ; or

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- (h) affect any liability imposed on the public trustee or on the Consolidated Fund of the United Kingdom by the Public Trustee Act, 1906;
- and, without prejudice to the general effect of the foregoing provisions, Part III of this Act shall not apply to the Crown except in right of His Majesty's Government in the United Kingdom.
- (3) A certificate of a Secretary of State:—
- (a) to the effect that any alleged liability of the Crown arises otherwise than in respect of His Majesty's Government in the United Kingdom ;
- (b) to the effect that any proceedings by the Crown are proceedings otherwise than in right of His Majesty's Government in the United Kingdom ;
- shall, for the purposes of this Act, be conclusive as to the matter so certified.
- (4) Where any property vests in the Crown by virtue of any rule of law which operates independently of the acts or the intentions of the Crown, the Crown shall not by virtue of this Act be subject to any liabilities in tort by reason only of the property being so vested; but the provisions of this subsection shall be without prejudice to the liabilities of the Crown under this Act in respect of any period after the Crown or any person acting for the Crown has in fact taken possession or control of any such property, or entered into occupation thereof.
- (5) This Act shall not operate to limit the discretion of the court to grant relief by way of mandamus in cases in which such relief might have been granted before the commencement of this Act, notwithstanding that by reason of the provisions of this Act some other and further remedy is available.

PART V

APPLICATION TO SCOTLAND.

41 Application of Act to Scotland.

The provisions of this Part of this Act shall have effect for the purpose of the application of this Act to Scotland.

42 Exclusion of certain provisions.

Section one, Part II (except section thirteen so far as relating to proceedings mentioned in the First Schedule and section twenty-one), Part III (except section twenty-six) and section twenty-eight of this Act shall not apply to Scotland.

43 Interpretation for purposes of application to Scotland.

In the application of this Act to Scotland :—

- (a) for any reference to the High Court (except a reference to that Court as a prize court) there shall be substituted a reference to the Court of Session ; for any reference to the county court there shall be substituted a reference to the sheriff court; the expression " plaintiff " means pursuer ; the expression " defendant " means defender ; the expression " county court rules" means Act of Sederunt applying to the sheriff court; and the expression " injunction " means interdict ;

- (b) the expression "tort" means any wrongful or negligent act or omission giving rise to liability in reparation, and any reference to liability or right or action or proceedings in tort shall be construed accordingly; and for any reference to Part II of the Law Reform (Married Women and Tortfeasors) Act, 1935, there shall be substituted a reference to section three of the Law Reform (Miscellaneous Provisions) (Scotland) Act, 1940.

44 Proceedings against the Crown in the sheriff court.

Subject to the provisions of this Act and to any enactment limiting the jurisdiction of the sheriff court (whether by reference to the subject matter of the proceedings or otherwise) civil proceedings against the Crown may be instituted in the sheriff court in like manner as if the proceedings were against a subject :

Provided that where in any proceedings against the Crown in the sheriff court a certificate by the Lord Advocate is produced to the effect that the proceedings may involve an important question of law, or may be decisive of other cases, or are for other reasons more fit for trial in the Court of Session, the proceedings shall be remitted to the Court of Session, and where any proceedings have been so remitted to the Court of Session, and it appears to that Court that the remit has occasioned additional expense to the pursuer, the Court shall take account of the additional expense so occasioned in deciding any question as to expenses.

45 Satisfaction of orders granted against the Crown in Scotland.

- (1) Where in any civil proceedings by or against the Crown or to which the Crown has been made a party, any order (including an award of expenses) is made by any court in favour of any person against the Crown or against a Government department or against an officer of the Crown as such, the clerk of court shall, on an application in that behalf made by or on behalf of that person at any time after the expiration of twenty-one days from the date of the order, or, in a case where there is an award of expenses and the expenses require to be taxed, at any time after taxation whichever is the later, issue to that person a certified copy of the order of the court.
- (2) A copy of any such order may be served by the person in whose favour the order is made upon the person for the time being named in the record as the solicitor, or the person acting as solicitor, for the Crown or for the Government department or officer concerned.
- (3) If the order decerns for the payment of any money by way of damages or otherwise or of any expenses, the appropriate Government department shall, subject as hereinafter provided, pay to the person entitled or to his solicitor the amount appearing from the order to be due to him together with the interest, if any, lawfully due thereon :

Provided that the court by which any such order as aforesaid is made or any court to which an appeal against the order lies may direct that pending an appeal or otherwise payment of the whole of any amount so payable, or any part thereof, shall be suspended.

- (4) No such order as aforesaid shall warrant any diligence or execution against any person to enforce payment of any such money or expenses as aforesaid, and no person shall be individually liable under any order for the payment by the Crown, or any Government department or any officer of the Crown as such, of any such money or expenses.

Status: This is the original version (as it was originally enacted).

46 Provisions as to arrestment.

Arrestment in the hands of the Crown or of a Government department or of any officer of the Crown as such shall be competent in any case where arrestment in the hands of a subject would have been competent :

Provided that nothing in the foregoing provisions shall warrant the arrestment of:—

- (a) any wages or salary payable to any officer of the Crown as such ;
- (b) any money which is subject to the provisions of any enactment prohibiting or restricting assignation or charging or taking in execution ; or
- (c) any money payable by the Crown to any person on account of a deposit in the Post Office Savings Bank.

47 Recovery of documents in possession of Crown.

Subject to and in accordance with Acts of Sederunt applying to the Court of Session and the sheriff court, commission and diligence for the recovery of documents in the possession of the Crown may be granted in any action whether or not the Crown is a party thereto, in like manner in all respects as if the documents were in the possession of a subject:

Provided that—

- (i) this subsection shall be without prejudice to any rule of law which authorises or requires the withholding of any document on the ground that its disclosure would be injurious to the public interest; and
- (ii) the existence of a document shall not be disclosed if, in the opinion of a Minister of the Crown, it would be injurious to the public interest to disclose the existence thereof.

48 Application of 56 and 57 Vict. c. 61 to the Crown.

The Public Authorities Protection Act, 1893, shall, in its application to any civil proceedings against the Crown, have effect as if in paragraph (a) of section one thereof for any reference to six months there were substituted a reference to twelve months.

49 Application to Scotland of s. 26.

Section twenty-six of this Act shall have effect as if for subsection (2) thereof there were substituted the following subsection:—

“(2) The exception in respect of taxes contained in section four of the Debtors (Scotland) Act, 1880, from the enactment therein contained abolishing imprisonment for debt shall apply only in respect of death duties and purchase tax.”

50 Application to Scotland of s. 34.

Section thirty-five of this Act shall have effect as if for subsection (2) thereof there were substituted the following subsection:—

“(2) The following provisions shall apply as regards proceedings in the Court of Session or the sheriff court:—

Status: This is the original version (as it was originally enacted).

- (a) where decree in absence has been granted against the Crown the decree shall not be operative without the leave of the court obtained on an application of which notice has been given to the Crown ;
- (b) a person shall not be entitled to avail himself of any set-off or counterclaim in any proceedings by the Crown for the recovery of taxes, duties or penalties, or to avail himself in proceedings of any other nature by the Crown of any set-off or counterclaim arising out of a right or claim to repayment in respect of any taxes, duties or penalties ;
- (c) a person shall not be entitled without the leave of the court to avail himself of any set-off or counterclaim in any proceedings by the Crown if the subject matter of the set-off or counterclaim does not relate to the Government department on whose behalf the proceedings are brought ;
- (d) the Crown, in any proceedings against a Government department, or against the Lord Advocate on behalf of a Government, department, shall not, without the leave of the court, be entitled to avail itself of any set-off or counterclaim if the subject matter thereof does not relate to that department.”

51 Application to Scotland of ss. 36 and 38.

- (1) Section thirty-six of this Act shall have effect as if the words from "and for the purposes" to the end of the section were omitted.
- (2) Section thirty-eight of this Act shall have effect as if in subsection (4) thereof:—
 - (i) there were included a reference to this Part of this Act;
 - (ii) for the reference to the Attorney General there were substituted a reference to the Lord Advocate ;
 - (iii) the proviso were omitted.

PART VI

EXTENT, COMMENCEMENT, SHORT TITLE, &C.

52 Extent of Act.

Subject to the provisions hereinafter contained with respect to Northern Ireland, this Act shall not affect the law enforced in courts elsewhere than in England and Scotland, or the procedure in any such courts.

53 Provisions as to Northern Ireland.

- (1) His Majesty may by Order in Council provide for extending this Act to Northern Ireland with such additions, exceptions and modifications as appear to His Majesty to be expedient.
- (2) An Order in Council under this section may provide for amending the law both in its application to the Crown in right of His Majesty's Government in the United Kingdom and in its application to the Crown in right of His Majesty's Government in Northern Ireland.
- (3) An Order in Council under this section may provide for amending the law:—

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- (a) with respect to the right of the Crown to sue in a county court in Northern Ireland ; and
 - (b) with respect to the award of costs to or against the Crown in Northern Ireland.
- (4) An Order in Council under this section may be varied or revoked by a further Order in Council made thereunder.
- (5) An Order in Council under this section may include such provisions as appear to His Majesty to be incidental to or consequential on any provisions contained in such an Order by virtue of the preceding provisions of this section.
- (6) So far as any provision contained in an Order in Council under this section deals with a matter with respect to which the Parliament of Northern Ireland has power to make laws, it shall, for the purposes of section six of the Government of Ireland Act, 1920 (which relates to the power of the Parliament of Northern Ireland), be deemed to be a provision of an Act passed before the appointed day.
- (7) An Order in Council under this section shall be laid before Parliament as soon as may be after it is made, and, if either House of Parliament, within the next twenty-eight days on which that House has sat after such an Order is laid before it, resolves that the Order be annulled, the Order shall thereupon cease to have effect except as respects things previously done or omitted to be done, without prejudice, however, to the making of a new Order.

Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, such an Order shall be deemed not to be a statutory rule to which that section applies.

54 Short title and commencement.

- (1) This Act may be cited as the Crown Proceedings Act, 1947.
- (2) This Act shall come into operation on such day, not later than the first day of January, nineteen hundred and forty-eight, as His Majesty may by Order in Council appoint.

SCHEDULES.

FIRST SCHEDULE

Section 23.

PROCEEDINGS ABOLISHED BY THIS ACT.

- 1 (1) Latin informations and English informations.
- (2) Writs of *capias ad respondendum*, writs of *subpoena ad respondendum*, and writs of appraisalment.
- (3) Writs, of *scire facias*.
- (4) Proceedings for the determination of any issue upon a writ of extent or of *diem clausit extremum*.
- (5) Writs of summons under Part V of the Crown Suits Act, 1865.
- 2 (1) Proceedings against His Majesty by way of petition of right, including proceedings by way of petition of right intituled in the Admiralty Division under section fifty-two of the Naval Prize Act, 1864.
- (2) Proceedings against His Majesty by way of *monstrans de droit*.

SECOND SCHEDULE

Section 39.

ENACTMENTS REPEALED.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
25 Edw. 1. c. 18.	The King's Tenant his Debtor.	The whole Act.
25 Geo. 3. c. 35.	The Crown Debtors Act, 1785.	The whole Act.
57 Geo. 3. c. 117.	The Extents in Aid Act, 1817.	The whole Act.
5 & 6 Vict. c. 86.	The Exchequer Court Act. 1842.	Section nine.
5 & 6 Vict. c. 94.	The Defence Act, 1842.	Section thirty-four.
19 & 20 Vict. c. 56.	Exchequer Court (Scotland) Act, 1856.	Sections five to nine. In section ten the words from " in place of," to " provided." Sections eleven and twelve. In section twenty-two the words from " and all

Status: This is the original version (as it was originally enacted).

Session and Chapter.	Title or Short Title.	Extent of Repeal.
		interlocutors or decrees," to the end of the section. Schedules A, B, C, D and E.
23 & 24 Vict. c. 34.	The Petitions of Right Act, 1860.	The whole Act.
27 & 28 Vict. c. 25.	The Naval Prize Act, 1864.	Section fifty-two.
27 & 28 Vict. c. 57.	The Admiralty Lands and Works Act, 1864.	Section eleven.
28 & 29 Vict. c. 104	The Crown Suits Etc. Act, 1865.	The whole Act except Part I and section forty-six thereof.
28 & 29 Vict. c. 124.	The Admiralty Powers, &c. Act, 1865.	Section two.
30 & 31 Vict. c. 128.	The War Department Stores Act, 1867.	Section twenty.
31 & 32 Vict. c. 78.	The Admiralty Suits Act, 1868.	The whole Act.
31 & 32 Vict. c. 110.	The Telegraph Act, 1868	In section six the words from " in the same court " to the end of the section.
38 & 39 Vict. c. 89.	The Public Works Loans Act, 1875.	Paragraph (1) of section five, and in section seven the words from " Where the secretary " to the end of the section.
39 & 40 Vict. c. 36.	The Customs Consolidation Act, 1876.	Sections two hundred and nineteen, and two hundred and forty-seven to two hundred and fifty-four.
41 & 42 Vict. c. 76.	The Telegraph Act, 1878	Section eleven.
52 & 53 Vict. c. 30	The Board of Agriculture Act, 1889.	In subsection (1) of section six the words " sue and be sued and may ".
53 & 54 Vict. c. 21.	The Inland Revenue Regulation Act, 1890.	In subsection (1) of section twenty-one the words " and in the name of an officer or in England in the name of the Attorney General for England" so far as they relate to proceedings in the High Court, and in subsection (1) of section twenty-three the words " of subpoena ".
57 & 58 Vict. c. 60.	The Merchant Shipping Act, 1894.	Subsection (4) of section four hundred and sixty.

Status: This is the original version (as it was originally enacted).

Session and Chapter.	Title or Short Title.	Extent of Repeal.
6 & 7 Geo. 5. c. 65.	The Ministry of Pensions Act, 1916.	In subsection (1) of section six the words " sue and be sued and may ".
7 & 8 Geo. 5. c. 51.	The Air Force (Constitution) Act, 1917.	In subsection (1) of section ten the words " sue and be sued and may ".
9 & 10 Geo. 5. c. 21.	The Ministry of Health Act, 1919.	In subsection (1) of section seven the words from the beginning to " the name of ", and the word " and ", where it secondly occurs.
9 & 10 Geo. 5. c. 58.	The Forestry Act, 1919.	In subsection (3) of section two, the words " may sue and be sued and ".
23 & 24 Geo. 5. c. 36.	The Administration of Justice (Miscellaneous Provisions) Act, 1933.	Section four.
24 & 25 Geo. 5. c. 53.	The County Courts Act, 1934.	In subsection (1) of section seventy-five, the words from "and accordingly" to the end of the subsection. In subsection (2) of section seventy-five, the words " instituted by writ of summons."
26 Geo. 5. & 1 Edw. 8. c. 43.	The Tithe Act, 1936.	In paragraph 8 of the Second Schedule, the words " may sue and be sued and ".
26 Geo. 5. & 1 Edw. 8. c. 44.	The Air Navigation Act, 1936.	Subsection (5) of section twenty-six, paragraph (5) of section thirty-two, and Part II of the Fourth Schedule.
2 & 3 Geo. 6. c. 21.	The Limitation Act, 1939	In subsection (1) of section thirty, the words from " and for the purposes" to " presented ".
3 & 4 Geo. 6. c. 43.	The Merchant Shipping (Salvage) Act, 1940.	The whole Act.
9 & 10 Geo. 6. c. 31.	The Ministers of the Crown (Transfer of Functions) Act, 1946.	In the Second Schedule, the amendments to subsection (1) of section twenty-six of the Ministry of Transport Act, 1919.