



Crown Proceedings Act 1947

1947 CHAPTER 44

PART V

APPLICATION TO SCOTLAND.

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:—

- (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.”