



# Administration of Justice Act 1956

## 1956 CHAPTER 46

### PART I

#### ADMIRALTY JURISDICTION AND OTHER PROVISIONS AS TO SHIPS

#### **1 Admiralty jurisdiction of the High Court**

- (1) The Admiralty jurisdiction of the High Court shall be as follows, that is to say, jurisdiction to hear and determine any of the following questions or claims—
- (a) any claim to the possession or ownership of a ship or to the ownership of any share therein;
  - (b) any question arising between the co-owners of a ship as to possession, employment or earnings of that ship;
  - (c) any claim in respect of a mortgage of or charge on a ship or any share therein ;
  - (d) any claim for damage done by a ship ;
  - (e) any claim for damage received by a ship ;
  - (f) any claim for loss of life or personal injury sustained in consequence of any defect in a ship or in her apparel or equipment, or of the wrongful act, neglect or default of the owners, charterers or persons in possession or control of a ship or of the master or crew thereof or of any other person for whose wrongful acts, neglects or defaults the owners, charterers or persons in possession or control of a ship are responsible, being an act, neglect or default in the navigation or management of the ship, in the loading, carriage or discharge of goods on, in or from the ship or in the embarkation, carriage or disembarkation of persons on, in or from the ship;
  - (g) any claim for loss of or damage to goods carried in a ship;
  - (h) any claim arising out of any agreement relating to the carriage of goods in a ship or to the use or hire of a ship;
  - (j) any claim in the nature of salvage (including any claim arising by virtue of the application, by or under section fifty-one of the Civil Aviation Act, 1949, of the law relating to salvage to aircraft and their apparel and cargo);
  - (k) any claim in the nature of towage in respect of a ship or an aircraft;

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- (l) any claim in the nature of pilotage in respect of a ship or an aircraft;
- (m) any claim in respect of goods or materials supplied to a ship for her operation or maintenance ;
- (n) any claim in respect of the construction, repair or equipment of a ship or dock charges or dues;
- (o) any claim by a master or member of the crew of a ship for wages and any claim by or in respect of a master or member of the crew of a ship for any money or property which, under any of the provisions of the Merchant Shipping Acts, 1894 to 1954, is recoverable as wages or in the court and in the manner in which wages may be recovered;
- (p) any claim by a master, shipper, charterer or agent in respect of disbursements made on account of a ship;
- (q) any claim arising out of an act which is or is claimed to be a general average act;
- (r) any claim arising out of bottomry ;
- (s) any claim for the forfeiture or condemnation of a ship or of goods which are being or have been carried, or have been attempted to be carried, in a ship, or for the restoration of a ship or any such goods after seizure, or for droits of Admiralty,

together with any other jurisdiction which either was vested in the High Court of Admiralty immediately before the date of the commencement of the Supreme Court of Judicature Act, 1873 (that is to say, the first day of November, eighteen hundred and seventy-five) or is conferred by or under an Act which came into operation on or after that date on the High Court as being a court with Admiralty jurisdiction and any other jurisdiction connected with ships or aircraft vested in the High Court apart from this section which is for the time being assigned by rules of court to the Probate, Divorce and Admiralty Division.

- (2) The jurisdiction of the High Court under paragraph (b) of subsection (1) of this section includes power to settle any account outstanding and unsettled between the parties in relation to the ship, and to direct that the ship, or any share thereof, shall be sold, and to make such other order as the court thinks, fit.
- (3) The reference in paragraph (f) of subsection (1) of this section to claims in the nature of salvage includes a reference to such claims for services rendered in saving life from a ship or an aircraft or in preserving cargo, apparel or wreck as, under sections five hundred and forty-four to five hundred and forty-six of the Merchant Shipping Act, 1894, or any Order in Council made under section fifty-one of the Civil Aviation Act, 1949, are authorised to be made in connection with a ship or an aircraft.
- (4) The preceding provisions of this section apply—
  - (a) in relation to all ships or aircraft, whether British or not and whether registered or not and wherever the residence or domicile of their owners may be;
  - (b) in relation to all claims, wheresoever arising (including, in the case of cargo or wreck salvage, claims in respect of cargo or wreck found on land); and
  - (c) so far as they relate to mortgages and charges, to all mortgages or charges, whether registered or not and whether legal or equitable, including mortgages and charges created under foreign law:

Provided that nothing in this subsection shall be construed as extending the cases in which money or property is recoverable under any of the provisions of the Merchant Shipping Acts, 1894 to 1954.

## **2 Admiralty jurisdiction of the Liverpool Court of Passage and county courts**

- (1) Subject to the limitations of amount specified in subsection (2) of this section, the Liverpool Court of Passage and any county court with Admiralty jurisdiction shall have the following Admiralty jurisdiction, that is to say, jurisdiction as respects any such claims as are mentioned in paragraphs (d) to (p) of subsection (1) of the preceding section and subsections (3) and (4) of that section shall, with the necessary modifications, have effect in relation to them.
- (2) The limitations of amount referred to in subsection (1) of this section are as follows, that is to say, that the court shall not have jurisdiction to hear and determine any claim mentioned in the said subsection (1) for an amount exceeding one thousand pounds, except in the case of a claim in the nature of salvage where the value of the property saved does not exceed three thousand five hundred pounds.
- (3) If, as respects any proceedings as to any such claim as is mentioned in subsection (1) of this section, the parties agree, by a memorandum signed by them or by their respective solicitors or agents, that the Liverpool Court of Passage or a particular county court specified in the memorandum shall have jurisdiction in the proceedings, that court shall, notwithstanding anything in subsection (2) of this section or in any rules made under subsection (3) of section ninety-nine of the County Courts Act, 1934, for prescribing the courts in which proceedings shall be brought, have jurisdiction to hear and determine the proceedings accordingly.
- (4) Nothing in this section shall be taken to affect the jurisdiction of any county court to hear and determine any proceedings in which it has jurisdiction by virtue of section forty or forty-two of the County Courts Act, 1934, or the jurisdiction of the Liverpool Court of Passage to hear and determine any proceedings in which it has jurisdiction otherwise than by virtue of subsection (3) of section two hundred and forty-nine of the Liverpool Corporation Act, 1921.
- (5) In section fifty-eight of the County Courts Act, 1934 (which relates to the transfer of Admiralty proceedings from the High Court to a county court) subsection (2) (which describes the claims to which that section applies) shall cease to have effect, and that section shall apply to any action where the plaintiff's claim is any such claim as is mentioned in paragraphs (d) to (p) of subsection (1) of section one of this Act and the amount claimed or remaining in dispute does not exceed the amount specified in subsection (2) of this section.

The said section so applies—

- (a) whether the action could or could not have been commenced in a county court; and
  - (b) whether the defendant does or does not set up or intend to rely on a counterclaim ; and
  - (c) whether the counterclaim (if any), if it had been a claim in an action, would or would not have been within the jurisdiction of a county court.
- (6) Nothing in this section, or in section fifty-five of the County Courts Act, 1934, or any order made thereunder shall be taken to confer on the Liverpool Court of Passage or on a county court the jurisdiction of a Prize Court within the meaning of the Naval Prize Acts, 1864 to 1916.

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### **3 Mode of exercise of Admiralty jurisdiction**

- (1) Subject to the provisions of the next following section, the Admiralty jurisdiction of the High Court, the Liverpool Court of Passage and any county court may in all cases be invoked by an action in personam.
- (2) The Admiralty jurisdiction of the High Court may in the cases mentioned in paragraphs (a) to (c) and (s) of subsection (1) of section one of this Act be invoked by an action in rem against the ship or property in question.
- (3) In any case in which there is a maritime lien or other charge on any ship, aircraft or other property for the amount claimed, the Admiralty jurisdiction of the High Court, the Liverpool Court of Passage and any county court may be invoked by an action in rem against that ship, aircraft or property.
- (4) In the case of any such claim as is mentioned in paragraphs (d) to (r) of subsection (1) of section one of this Act, being a claim arising in connection with a ship, where the person who would be liable on the claim in an action in personam was, when the cause of action arose, the owner or charterer of, or in possession or in control of, the ship, the Admiralty jurisdiction of the High Court and (where there is such jurisdiction) the Admiralty jurisdiction of the Liverpool Court of Passage or any county court may (whether the claim gives rise to a maritime lien on the ship or not) be invoked by an action in rem against—
  - (a) that ship, if at the time when the action is brought it is beneficially owned as respects all the shares therein by that person ; or
  - (b) any other ship which, at the time when the action is brought, is beneficially owned as aforesaid.
- (5) In the case of a claim in the nature of towage or pilotage in respect of an aircraft, the Admiralty jurisdiction of the High Court, the Liverpool Court of Passage and any county court may be invoked by an action in rem against that aircraft if at the time when the action is brought it is beneficially owned by the person who would be liable on the claim in an action in personam.
- (6) Notwithstanding anything in the preceding provisions of this section, the Admiralty jurisdiction of the High Court, the Liverpool Court of Passage or any county court shall not be invoked by an action in rem in the case of any such claim as is mentioned in paragraph (o) of subsection (1) of section one of this Act unless the claim relates wholly or partly to wages (including any sum allotted out of wages or adjudged by a superintendent to be due by way of wages).
- (7) Where, in the exercise of its Admiralty jurisdiction, the High Court, the Liverpool Court of Passage or any county court orders any ship, aircraft or other property to be sold, the court shall have jurisdiction to hear and determine any question arising as to the title to the proceeds of sale.
- (8) In determining for the purposes of subsections (4) and (5) of this section whether a person would be liable on a claim in an action in personam it shall be assumed that he has his habitual residence or a place of business within England and Wales.

### **4 Jurisdiction in personam of courts in collision and other similar cases**

- (1) No court in England and Wales shall entertain an action in personam to enforce a claim to which this section applies unless—

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- (a) the defendant has his habitual residence or a place of business within England and Wales ; or
- (b) the cause of action arose within inland waters of England and Wales or within the limits of a port of England and Wales; or
- (c) an action arising out of the same incident or series of incidents is proceeding in the court or has been heard and determined in the court.

In this subsection—

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

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

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

- (2) No court in England and Wales shall entertain an action in personam to enforce a claim to which this section applies until any proceedings previously brought by the plaintiff in any court outside England and Wales against the same defendant in respect of the same incident or series of incidents have been discontinued or otherwise come to an end.
- (3) The preceding provisions of this section shall apply to counter-claims (not being counter-claims in proceedings arising out of the same incident or series of incidents) as they apply to actions in personam, but as if the references to the plaintiff and the defendant were respectively references to the plaintiff on the counterclaim and the defendant to the counter-claim.
- (4) The preceding provisions of this section shall not apply to any action or counter-claim if the defendant thereto submits or has agreed to submit to the jurisdiction of the court.
- (5) Subject to the provisions of subsection (2) of this section, the High Court shall have jurisdiction to entertain an action in personam to enforce a claim to which this section applies whenever any of the conditions specified in paragraphs (a) to (c) of subsection (1) of this section are satisfied, and the rules of court relating to the service of process outside the jurisdiction shall make such provision as may appear to the rule-making authority to be appropriate having regard to the provisions of this subsection.
- (6) Nothing in this section shall prevent an action or counterclaim which is brought in accordance with the provisions of this section in the High Court, the Liverpool Court of Passage or a county court being transferred, in accordance with the enactments in that behalf, to some other court.
- (7) The claims to which this section applies are claims for damage, loss of life or personal injury arising out of a collision between ships or out of the carrying out of or omission to carry out a manoeuvre in the case of one or more of two or more ships or out of non-compliance, on the part of one or more of two or more ships, with the collision regulations.

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- (8) For the avoidance of doubt it is hereby declared that this section applies in relation to the jurisdiction of any court not being Admiralty jurisdiction, as well as in relation to its Admiralty jurisdiction, if any.

## 5 Wages

- (1) Section one hundred and sixty-five of the Merchant Shipping Act, 1894 (which imposes restrictions on suits for wages), is hereby repealed.
- (2) Nothing in this Part of this Act shall be construed as limiting the jurisdiction of the court to refuse to entertain an action for wages by the master or a member of the crew of a ship, not being a British ship.

## 6 Courts in England and Wales not to have jurisdiction in cases falling within Rhine Convention

No court in England and Wales shall have jurisdiction to determine any claim or question certified by the Secretary of State to be a claim or question which, under the Rhine Navigation Convention, falls to be determined in accordance with the provisions thereof and any proceedings to enforce such a claim which are commenced in any such court shall be set aside.

## 7 Repeals and savings

- (1) Section six hundred and eighty-eight of the Merchant Shipping Act, 1894, the Shipowners' Negligence (Remedies) Act, 1905 and the Merchant Shipping (Stevedores and Trimmers) Act, 1911 (which relate to the detention of ships by customs officers in certain cases), and so much of subsection (2) of section seventy-five of the Diseases of Animals Act, 1950, as enables a local authority to recover expenses in burying or destroying carcasses in the same manner as salvage is recoverable, shall cease to have effect, but nothing in this Part of this Act affects the provisions of section five hundred and fifty-two of the Merchant Shipping Act, 1894 (which relates to the power of a receiver of wreck to detain a ship in respect of a salvage claim).
- (2) The provisions of sections one to three of this Act shall, as respects the High Court, have effect in lieu of sections twenty-two and thirty-three of the Supreme Court of Judicature (Consolidation) Act, 1925 and, as respects the Liverpool Court of Passage and the county court, in lieu of subsections (1) to (7) of section fifty-six of the County Courts Act, 1934, and those Acts, and in particular any provision of the first-mentioned Act referring to the Admiralty jurisdiction of the High Court, shall be construed accordingly.
- (3) Nothing in this Part of this Act shall authorise proceedings in rem in respect of any claim against the Crown, or the arrest, detention or sale of any of Her Majesty's ships or Her Majesty's aircraft, or of any cargo or other property belonging to the Crown.

In this subsection " Her Majesty's ships " and " Her Majesty's aircraft" have the meanings assigned to them by subsection (2) of section thirty-eight of the Crown Proceedings Act, 1947.

- (4) Nothing in this Part of this Act shall affect section five of the Mail Ships Act, 1891 (which protects certain mail ships from arrest in certain circumstances).

## **8 Supplemental and transitional provisions**

(1) In this Part of this Act, unless the context otherwise requires.—

" ship " includes any description of vessel used in navigation ;

" goods " includes baggage ;

" collision regulations " means regulations under section four hundred and eighteen of the Merchant Shipping Act, 1894, or any such rules as are mentioned in subsection (1) of section four hundred and twenty-one of that Act or any rules made under subsection (2) of the said section four hundred and twenty-one;

" master " has the same meaning as in the Merchant Shipping Act, 1894, and accordingly includes every person (except a pilot) having command or charge of a ship;

" towage " and " pilotage ", in relation to an aircraft, mean towage and pilotage while the aircraft is waterborne;

" the Rhine Navigation Convention " means the Convention of the seventh of October, eighteen hundred and sixty-eight, as revised by any subsequent Convention.

(2) Nothing in any provision in this Part of this Act or in any repeal consequential thereon shall affect proceedings in respect of any cause of action arising before the coming into operation thereof.