



# Crown Proceedings Act 1947

## 1947 CHAPTER 44

### PART II

#### JURISDICTION AND PROCEDURE.

##### *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.

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- (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 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.

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- (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 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 ;

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- (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.