



Administration of Justice Act 1956

1956 CHAPTER 46 4 and 5 Eliz 2

PART V

ADMIRALTY JURISDICTION AND ARRESTMENT OF SHIPS IN SCOTLAND

47 Arrest of ships on the dependence of an action or in rem.

- (1) Subject to the provisions of this section and section fifty of this Act, no warrant issued after the commencement of this Part of this Act for the arrest of property on the dependence of an action or in rem shall have effect as authority for the detention of a ship unless the conclusion in respect of which it is issued is appropriate for the enforcement of a claim to which this section applies, and, in the case of a warrant to arrest [^{F1}a ship or other maritime property which is not cargo] on the dependence of an action, unless [^{F2}at the time when the arrestment is executed] either—
- (a) the ship is the ship with which the action is concerned [^{F3}and the defender against whom that conclusion is directed owns at least one share in it or is the demise charterer of it], or
 - (b) all the shares in the ship are owned by the defender ^{F4}. . . .

[^{F5}(1A) Where a warrant to arrest on the dependence referred to in subsection (1) above (an “initial arrestment”) has been executed, then, subject to subsection (1B) below, no further warrant may be granted to arrest on the dependence—

- (a) the subjects of the initial arrestment; or
- (b) while the initial arrestment continues to have effect, any other ship in which the defender owns at least one share,

in respect of the claim to which the initial arrestment relates.

(1B) A further warrant to arrest on the dependence may be granted if—

- (a) the further arrestment complies with the requirements of subsection (1) above; and
- (b) cause is shown for granting the further warrant.]

(2) This section applies to any claim arising out of one or more of the following, that is to say—

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- (a) damage done or received by any ship;
 - (b) 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, unloading 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;
 - [^{F6}(c) the Salvage Convention, 1989;
 - (ca) any contract for or in relation to salvage services;]
 - (d) any agreement relating to the use or hire of any ship whether by charterparty or otherwise;
 - (e) any agreement relating to the carriage of goods in any ship whether by charterparty or otherwise;
 - (f) loss of, or damage to, goods carried in any ship;
 - (g) general average;
 - (h) any bottomry bond [^{F7}or contract of respondentia];
 - (i) towage;
 - (j) pilotage;
 - (k) the supply of goods or materials to a ship for her operation or maintenance;
 - (l) the construction, repair or equipment of any ship;
 - (m) liability for dock charges or dues;
 - (n) liability for payment of wages ^{F8}. . . of a master or member of the crew of a ship;
 - (o) master’s disbursements, including disbursements made by shippers, charterers or agents on behalf of a ship or her owner;
 - (p) any dispute as to the ownership or right to possession of any ship or as to the ownership of any share in a ship;
 - (q) any dispute between co-owners of any ship as to the ownership, possession, employment or earnings of that ship;
 - (r) the mortgage [^{F9}, hypothecation of or existence of any other charge on] any ship or any share in a ship;
 - (s) any forfeiture or condemnation of any ship, or of goods which are being, or have been, carried, or have been attempted to be carried, in any ship, or for the restoration of a ship or any such goods after seizure.
- [^{F10}(2A) An action having a conclusion appropriate for the enforcement of a claim to which subsection (2) above applies shall be known as an “admiralty action”.]
- (3) In any proceedings having a conclusion appropriate for the enforcement of any claim such as is mentioned in paragraphs (p) to (s) of [^{F11}subsection (2) above] a warrant may be issued—
- (a) if the conclusion is a pecuniary conclusion, for the arrest of the ship [^{F12}or of any share in it] on the dependence of the action; or
 - (b) in any other case (whether or not the claimant is entitled to a [^{F13}maritime] lien over the ship), for the arrest of the ship in rem;
- but there shall not be issued in respect of any such conclusion as aforesaid (whether pecuniary or otherwise) a warrant to arrest, either in rem or on the dependence of the

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action, any ship other than the ship [^{F14}or, as the case may be, any share in a ship other than in the ship,] to which the conclusion relates.

- (4) Subject to the preceding subsection, nothing in this section shall be taken to authorise—
- (a) the use of an arrestment on the dependence of an action otherwise than in respect of a pecuniary conclusion, or
 - (b) the use of an arrestment in rem otherwise than in respect of a conclusion appropriate for the making good of a [^{F15}maritime] lien.
- (5) A warrant for the arrest of a ship in rem issued by virtue of paragraph (b) of subsection (3) of this section in a case where the person in whose favour it is issued is not entitled to a [^{F16}maritime] lien over the ship shall have effect as authority for the detention of the ship as security for the implementation of the decree of the court so far as it affects that ship:

Provided that the court may, on the application of any person having an interest, recall the arrestment if satisfied that sufficient bail or other security for such implementation has been found.

[^{F17}(5A) Subject to subsection (6) below, it is competent to execute an arrestment of a ship, cargo or other maritime property regardless of whether the ship or other maritime property is in non-tidal or tidal waters or on land.

(5B) In subsection (5A) above, “tidal waters” means any part of the sea and any part of a river within the ebb and flow of the tide at ordinary spring tides.]

(6) [^{F18}It is not competent to execute an arrestment of a ship or cargo on board] a ship while it is on passage.

(7) Nothing in this section shall authorise the arrest, whether on the dependence of an action or in rem, of a ship 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.

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 ^{M1}Crown Proceedings Act 1947.

(8) ^{F19}

[^{F20}(8) In—

- (a) paragraph (c) of subsection (2) above, the “Salvage Convention, 1989” means the International Convention on Salvage 1989 as it has effect under [^{F21}section 224 of the Merchant Shipping Act 1995]];
- (b) paragraph (ca) of that subsection, the reference to salvage services includes services rendered in saving life from a ship and the reference to any claim arising out of any contract for or in relation to salvage services includes any claim arising out of such a contract whether or not arising during the provision of such services,

and the claims mentioned in subsections (2)(c) and (ca) shall be construed as including claims available by virtue of section 87 of the Civil Aviation Act 1982.

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Textual Amendments

- F1** Words in s. 47(1) inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 7(2)(a)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F2** Words in s. 47(1) inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 7(2)(b)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F3** Words in s. 47(1)(a) inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 7(2)(c)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F4** Words in s. 47(1)(b) repealed (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 7(2)(d)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F5** S. 47(1A)(1B) inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 7(3)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F6** S. 47(2)(c)(ca) substituted (1.1.1995) for s. 47(2)(c) by 1994 c. 28, s. 1(6), **Sch. 2 para. 4(2)(a)**; S.I. 1994/2971, **art. 2, Sch.**
- F7** Words in s. 47(2)(h) inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 4(a)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F8** Words in s. 47(2)(n) repealed (1.1.1996) by 1995 c. 21, ss. 314(1)(2), 316(2), Sch. 12, **Sch. 13 para. 29(2)(a)** (with s. 312(1), Sch. 14 para. 1)
- F9** Words in s. 47(2)(r) substituted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 3** (with s. 223); S.S.I. 2010/249, **art. 2**
- F10** S. 47(2A) inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 4(b)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F11** Words in s. 47(3) substituted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 4(c)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F12** Words in s. 47(3)(a) inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 7(4)(a)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F13** Word in s. 47(3)(b) inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 2** (with s. 223); S.S.I. 2010/249, **art. 2**
- F14** Words in s. 47(3) inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 7(4)(b)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F15** Word in s. 47(4)(b) inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 2** (with s. 223); S.S.I. 2010/249, **art. 2**
- F16** Word in s. 47(5) inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 2** (with s. 223); S.S.I. 2010/249, **art. 2**
- F17** S. 47(5A)(5B) inserted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 11(a)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F18** Words in s. 47(6) substituted (1.7.2010) by Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), ss. 213, 227(3), **Sch. 4 para. 11(b)** (with s. 223); S.S.I. 2010/249, **art. 2**
- F19** S. 47(8) repealed by Statute Law Revision Act 1963 (c. 30)
- F20** S. 47(8) added (1.1.1995) by 1994 c. 28, s. 1(6), **Sch. 2 para. 4(2)(b)**; S.I. 1994/2971, **art. 2, Sch.**
- F21** Words in s. 47(8)(a) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 29(2)(a)** (with s. 312(1))

Marginal Citations

- M1** 1947 c. 44.

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