



# Crown Proceedings Act 1947

1947 CHAPTER 44 10 and 11 Geo 6

## PART IV

MISCELLANEOUS AND SUPPLEMENTAL

### *Supplemental*

#### 35 [F<sup>1</sup>Rules of court]<sup>F1</sup>

- (1) Any power to make rules of court <sup>F2</sup>... 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 <sup>F3</sup>... 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 the United Kingdom;
  - (b) for securing that where any civil proceedings are brought against the Crown in accordance with the provisions of this Act [<sup>F4</sup>the claimant shall provide the Crown with information]<sup>F4</sup> 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) <sup>F5</sup> .....
  - (d) <sup>F5</sup> .....
  - (e) <sup>F5</sup> .....
  - (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

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*Changes to legislation: There are currently no known outstanding effects for the Crown Proceedings Act 1947, Section 35. (See end of Document for details)*

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- 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.

#### Textual Amendments

- F1** S. 35: sidenote substituted (1.10.2005) by [The Civil Procedure \(Modification of Crown Proceedings Act 1947\) Order 2005 \(S.I. 2005/2712\)](#), art. 2, **Sch. 1 para. 8(a)** (with art. 4)
- F2** Words in s. 35(1) repealed (1.10.2005) by [The Civil Procedure \(Modification of Crown Proceedings Act 1947\) Order 2005 \(S.I. 2005/2712\)](#), art. 2, **Sch. 1 para. 8(b)** (with art. 4)
- F3** Words in s. 35(2) repealed (1.10.2005) by [The Civil Procedure \(Modification of Crown Proceedings Act 1947\) Order 2005 \(S.I. 2005/2712\)](#), art. 2, **Sch. 1 para. 8(c)(i)** (with art. 4)
- F4** Words in s. 35(2)(b) substituted (1.10.2005) by [The Civil Procedure \(Modification of Crown Proceedings Act 1947\) Order 2005 \(S.I. 2005/2712\)](#), art. 2, **Sch. 1 para. 8(c)(ii)** (with art. 4)
- F5** S. 35(2)(c)-(e) repealed (1.10.2005) by [The Civil Procedure \(Modification of Crown Proceedings Act 1947\) Order 2005 \(S.I. 2005/2712\)](#), art. 2, **Sch. 1 para. 8(c)(iii)** (with art. 4)

#### Modifications etc. (not altering text)

- C1** Ss. 21-42 excluded (S.) (18.4.2016) by [The Utilities Contracts \(Scotland\) Regulations 2016 \(S.S.I. 2016/49\)](#), regs. 1, **103(8)**
- C2** S. 35(2)(g)(i) extended by [Taxes Management Act 1970 \(c. 9\)](#), s. **69**
- C3** S. 35(2)(b)(g)(i) extended by [Finance Act 1988 \(c.39, SIF 63:1\)](#), s. 58, Sch. 5 para. 11(1)

**Changes to legislation:**

There are currently no known outstanding effects for the Crown Proceedings Act 1947, Section 35.