



Crown Suits (Scotland) Act 1857

1857 CHAPTER 44 20 and 21 Vict

An Act to regulate the Institution of Suits at the Instance of the Crown and the Public Departments in the Courts of Scotland. [17th August 1857]

Textual Amendments

F1 Preamble omitted under authority of [Statute Law Revision Act 1892 \(c. 19\)](#)

Modifications etc. (not altering text)

- C1 Short title given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 Act extended (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), [ss. 247\(4\), 302](#)
- C3 Act applied (4.4.2011) by [Budget Responsibility and National Audit Act 2011 \(c. 4\)](#), s. 29, [Sch. 1 para. 7\(2\)\(b\)](#); S.I. 2011/892, Sch. 2

Commencement Information

I1 Act wholly in force at Royal Assent.

1 Crown suits, &c. may be brought in name of the Lord advocate.

Every action, suit, or proceeding to be instituted in Scotland on the behalf of or against Her Majesty, or in the interest of the Crown [^{F2}(including the Scottish Administration)], or on the behalf of or against any public department, may be lawfully raised in the name and at the instance of or directed against [^{F3}the appropriate Law Officer] as acting under this Act.

Textual Amendments

- F2 Words in s. 1 inserted (20.5.1999) by 1998 c. 46, s. 125, [Sch. 8 para. 2\(2\)\(a\)](#); S.I. 1998/3178, art. 2(2), [Sch. 4](#)
- F3 Words in s. 1 substituted (20.5.1999) by 1998 c. 46, s. 125, [Sch. 8 para. 2\(2\)\(b\)](#); S.I. 1998/3178, art. 2(2), [Sch. 4](#)

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Changes to legislation: There are currently no known outstanding effects for the Crown Suits (Scotland) Act 1857. (See end of Document for details)

2 with the sanction of the public department having the interest.

Provided always, that before instituting or defending any such action, suit, or proceeding, [^{F4}the appropriate Law Officer] shall have the authority of Her Majesty [^{F5}of the part of the Scottish Administration] or of the public department respectively on whose behalf or against whom such action, suit, or proceeding shall be instituted, to the institution or defence thereof.

Textual Amendments

- F4** Words in s. 2 substituted (20.5.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 2(3)(a)**; S.I. 1998/3178, art. 2(2), **Sch. 4**
- F5** Words in s. 2 inserted (20.5.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 2(3)(b)**; S.I. 1998/3178, art. 2(2), **Sch. 4**

3 Persons prosecuted not entitled to object to the instance.

Provided also, that it shall not be competent to any private party in any action, suit, or proceeding instituted as aforesaid, to challenge or impugn the instance of or the title to defend such action, suit, or proceeding, or the right or title of [^{F6}the appropriate Law Officer] to raise and prosecute or to defend the same, upon any allegation that such authority (as aforesaid) has not been granted, or that evidence of such authority is not produced.

Textual Amendments

- F6** Words in s. 3 substituted (20.5.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 2(4)**; S.I. 1999/3178, art. 2(2), **Sch. 4**

4 Meaning of “public department.”

[^{F7}(1)] The expression “public department” shall include the Treasury, the [^{F8}Ministry of Defence],. . . [^{F9}the Board of Inland Revenue, the [^{F10}Commissioners of Customs and Excise], the [^{F11}Crown Estate Commissioners], the Commissioners of Works, the Committee of Her Majesty’s Privy Council appointed for the consideration of matters relating to Trade and Foreign Plantations, and all the like public departments, bodies, or boards, and all and every officer and officers, person and persons acting on the behalf or in the interest of or entitled at the date of the passing of this Act to sue on the behalf or in the interest of any such public department.

[^{F12}(2) But the expression “public department” does not include [^{F13}Crown Estate Scotland].]

Textual Amendments

- F7** S. 4(1): s. 4 renumbered as s. 4(1) (S.) (16.2.2017) by [The Crown Estate Scotland \(Interim Management\) Order 2017 \(S.S.I. 2017/36\)](#), arts. 1(1), **22(2)**
- F8** Words substituted by virtue of [Defence \(Transfer of Functions\) Act 1964 \(c. 15\)](#), **s. 3(2)**
- F9** Words repealed by [Post Office Act 1969 \(c. 48\)](#), **Sch. 11 Pt. II**
- F10** Words substituted by virtue of [Customs and Excise Act 1952 \(c. 44\)](#), **Sch. 10 Pt. I**
- F11** Words substituted by virtue of S.R & O.1924/1370 (Rev. V, p. 443: 1924, p. 228), art. 1, [Crown Estate Act 1956 \(c. 73\)](#), **s. 1(7)** and [Crown Estate Act 1961 \(c. 55\)](#), **Sch. 2 para. 4(1)**

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- F12** S. 4(2) inserted (S.) (16.2.2017) by [The Crown Estate Scotland \(Interim Management\) Order 2017 \(S.S.I. 2017/36\)](#), arts. 1(1), **22(3)**
- F13** Words in s. 4(2) substituted (S.) (1.4.2020) by [Scottish Crown Estate Act 2019 \(asp 1\)](#), s. 46(2), **sch. 1 para. 1**; [S.S.I. 2020/77](#), reg. 2(1), sch. 1

Modifications etc. (not altering text)

- C4** Functions of Commissioners of Works now exercisable by Secretary of State: S. R & O. 1945/991 9 Rev. XV, p. 232; 1945 I, p. 1414), art. 2 and [S.I.1970/1681](#), **art. 2(1)**
- C5** S. 4 extended by [Employment Protection Act 1975 \(c. 71\)](#), **s. 1 Sch. 1 Pt. I para. 11(2)**

[^{F14}4A Meaning of “the appropriate Law Officer”.

In this Act “the appropriate Law Officer” means—

- (a) the Lord Advocate, where the action, suit or proceeding is on behalf of or against any part of the Scottish Administration, and
- (b) the Advocate General for Scotland, in any other case.]

Textual Amendments

- F14** [S. 4A](#) inserted (20.5.1999) by [1998 c. 46, s. 125, Sch. 8 para. 2\(5\)](#); [S.I. 1998/3178](#), art. 2(2), **Sch. 4**

5 Existing actions, &c. not to be affected.

^{F15} . . . No action, suit, or proceeding raised or to be raised at the instance of or against [^{F16}the Lord Advocate or the Advocate General for Scotland] for the time being shall abate or be affected by any change in the person, holding [^{F16}that office].

Textual Amendments

- F15** Words in [s. 5](#) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\), Sch. 1, Pt. I](#).
- F16** Words in [s. 5](#) substituted (20.5.1999) by [1998 c. 46, s. 125, Sch. 8 para. 2\(6\)](#); [S.I. 1998/3178](#), art. 2(2), **Sch. 4**

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Textual Amendments

- F17** [S. 6](#) repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

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Changes to legislation:

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