



# State Immunity Act 1978

## 1978 CHAPTER 33

### PART I

#### PROCEEDINGS IN UNITED KINGDOM BY OR AGAINST OTHER STATES

##### *Exceptions from immunity*

#### **2 Submission to jurisdiction.**

- (1) A State is not immune as respects proceedings in respect of which it has submitted to the jurisdiction of the courts of the United Kingdom.
- (2) A State may submit after the dispute giving rise to the proceedings has arisen or by a prior written agreement; but a provision in any agreement that it is to be governed by the law of the United Kingdom is not to be regarded as a submission.
- (3) A State is deemed to have submitted—
  - (a) if it has instituted the proceedings; or
  - (b) subject to subsections (4) and (5) below, if it has intervened or taken any step in the proceedings.
- (4) Subsection (3)(b) above does not apply to intervention or any step taken for the purpose only of—
  - (a) claiming immunity; or
  - (b) asserting an interest in property in circumstances such that the State would have been entitled to immunity if the proceedings had been brought against it.
- (5) Subsection (3)(b) above does not apply to any step taken by the State in ignorance of facts entitling it to immunity if those facts could not reasonably have been ascertained and immunity is claimed as soon as reasonably practicable.
- (6) A submission in respect of any proceedings extends to any appeal but not to any counter-claim unless it arises out of the same legal relationship or facts as the claim.

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- (7) The head of a State's diplomatic mission in the United Kingdom, or the person for the time being performing his functions, shall be deemed to have authority to submit on behalf of the State in respect of any proceedings; and any person who has entered into a contract on behalf of and with the authority of a State shall be deemed to have authority to submit on its behalf in respect of proceedings arising out of the contract.

### **3 Commercial transactions and contracts to be performed in United Kingdom.**

- (1) A State is not immune as respects proceedings relating to—
- (a) a commercial transaction entered into by the State; or
  - (b) an obligation of the State which by virtue of a contract (whether a commercial transaction or not) falls to be performed wholly or partly in the United Kingdom.
- (2) This section does not apply if the parties to the dispute are States or have otherwise agreed in writing; and subsection (1)(b) above does not apply if the contract (not being a commercial transaction) was made in the territory of the State concerned and the obligation in question is governed by its administrative law.
- (3) In this section “commercial transaction” means—
- (a) any contract for the supply of goods or services;
  - (b) any loan or other transaction for the provision of finance and any guarantee or indemnity in respect of any such transaction or of any other financial obligation; and
  - (c) any other transaction or activity (whether of a commercial, industrial, financial, professional or other similar character) into which a State enters or in which it engages otherwise than in the exercise of sovereign authority;
- but neither paragraph of subsection (1) above applies to a contract of employment between a State and an individual.

### **4 Contracts of employment.**

- (1) A State is not immune as respects proceedings relating to a contract of employment between the State and an individual where the contract was made in the United Kingdom or the work is to be wholly or partly performed there.
- (2) Subject to subsections (3) and (4) below, this section does not apply if—
- (a) at the time when the proceedings are brought the individual is a national of the State concerned; or
  - (b) at the time when the contract was made the individual was neither a national of the United Kingdom nor habitually resident there; or
  - (c) the parties to the contract have otherwise agreed in writing.
- (3) Where the work is for an office, agency or establishment maintained by the State in the United Kingdom for commercial purposes, subsection (2)(a) and (b) above do not exclude the application of this section unless the individual was, at the time when the contract was made, habitually resident in that State.
- (4) Subsection (2)(c) above does not exclude the application of this section where the law of the United Kingdom requires the proceedings to be brought before a court of the United Kingdom.

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- (5) In subsection (2)(b) above “national of the United Kingdom”<sup>[F1]</sup> means—
- (a) a British citizen, a British Dependent Territories citizen <sup>[F2]</sup>a British National (Overseas)] or a British Overseas citizen; or
  - (b) a person who under the British Nationality Act 1981 is a British subject; or
  - (c) a British protected person (within the meaning of that Act)]
- (6) In this section “proceedings relating to a contract of employment” includes proceedings between the parties to such a contract in respect of any statutory rights or duties to which they are entitled or subject as employer or employee.

#### Textual Amendments

- F1** Words substituted by [British Nationality Act 1981 \(c. 61, SIF 87\)](#), s. 52(6), [Sch. 7](#)  
**F2** Words inserted by [S.I. 1986/948](#), art. 8, [Sch.](#)

## 5 Personal injuries and damage to property.

A State is not immune as respects proceedings in respect of—

- (a) death or personal injury; or
- (b) damage to or loss of tangible property,  
caused by an act or omission in the United Kingdom.

## 6 Ownership, possession and use of property.

- (1) A State is not immune as respects proceedings relating to—
- (a) any interest of the State in, or its possession or use of, immovable property in the United Kingdom; or
  - (b) any obligation of the State arising out of its interest in, or its possession or use of, any such property.
- (2) A State is not immune as respects proceedings relating to any interest of the State in movable or immovable property, being an interest arising by way of succession, gift or bona vacantia.
- (3) The fact that a State has or claims an interest in any property shall not preclude any court from exercising in respect of it any jurisdiction relating to the estates of deceased persons or persons of unsound mind or to insolvency, the winding up of companies or the administration of trusts.
- (4) A court may entertain proceedings against a person other than a State notwithstanding that the proceedings relate to property—
- (a) which is in the possession or control of a State; or
  - (b) in which a State claims an interest,  
if the State would not have been immune had the proceedings been brought against it or, in a case within paragraph (b) above, if the claim is neither admitted nor supported by prima facie evidence.

## 7 Patents, trade-marks etc.

A State is not immune as respects proceedings relating to—

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- (a) any patent, trade-mark, design or plant breeders' rights belonging to the State and registered or protected in the United Kingdom or for which the State has applied in the United Kingdom;
- (b) an alleged infringement by the State in the United Kingdom of any patent, trade-mark, design, plant breeders' rights or copyright; or
- (c) the right to use a trade or business name in the United Kingdom.

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

- C1** S. 7 extended by Patents, Designs and Marks Act 1986 (c. 39, SIF 67A), s. 2, **Sch. 2 para. 1(2)(g)**  
**C2** S. 7(a)(b) amended (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 1(2)**; S.I. 1994/2550, **art. 2**

**8 Membership of bodies corporate etc.**

- (1) A State is not immune as respects proceedings relating to its membership of a body corporate, an unincorporated body or a partnership which—
  - (a) has members other than States; and
  - (b) is incorporated or constituted under the law of the United Kingdom or is controlled from or has its principal place of business in the United Kingdom, being proceedings arising between the State and the body or its other members or, as the case may be, between the State and the other partners.
- (2) This section does not apply if provision to the contrary has been made by an agreement in writing between the parties to the dispute or by the constitution or other instrument establishing or regulating the body or partnership in question.

**9 Arbitrations.**

- (1) Where a State has agreed in writing to submit a dispute which has arisen, or may arise, to arbitration, the State is not immune as respects proceedings in the courts of the United Kingdom which relate to the arbitration.
- (2) This section has effect subject to any contrary provision in the arbitration agreement and does not apply to any arbitration agreement between States.

**10 Ships used for commercial purposes.**

- (1) This section applies to—
  - (a) Admiralty proceedings; and
  - (b) proceedings on any claim which could be made the subject of Admiralty proceedings.
- (2) A State is not immune as respects—
  - (a) an action in rem against a ship belonging to that State; or
  - (b) an action in personam for enforcing a claim in connection with such a ship, if, at the time when the cause of action arose, the ship was in use or intended for use for commercial purposes.
- (3) Where an action in rem is brought against a ship belonging to a State for enforcing a claim in connection with another ship belonging to that State, subsection (2)(a) above does not apply as respects the first-mentioned ship unless, at the time when the cause

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of action relating to the other ship arose, both ships were in use or intended for use for commercial purposes.

- (4) A State is not immune as respects—
- (a) an action in rem against a cargo belonging to that State if both the cargo and the ship carrying it were, at the time when the cause of action arose, in use or intended for use for commercial purposes; or
  - (b) an action in personam for enforcing a claim in connection with such a cargo if the ship carrying it was then in use or intended for use as aforesaid.
- (5) In the foregoing provisions references to a ship or cargo belonging to a State include references to a ship or cargo in its possession or control or in which it claims an interest; and, subject to subsection (4) above, subsection (2) above applies to property other than a ship as it applies to a ship.
- (6) Sections 3 to 5 above do not apply to proceedings of the kind described in subsection (1) above if the State in question is a party to the Brussels Convention and the claim relates to the operation of a ship owned or operated by that State, the carriage of cargo or passengers on any such ship or the carriage of cargo owned by that State on any other ship.

## **11 Value added tax, customs duties etc.**

- A State is not immune as respects proceedings relating to its liability for—
- (a) value added tax, any duty of customs or excise or any agricultural levy; or
  - (b) rates in respect of premises occupied by it for commercial purposes.

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