



# Crown Proceedings Act 1947

## 1947 CHAPTER 44

### PART IV

#### MISCELLANEOUS AND SUPPLEMENTAL.

##### *Miscellaneous.*

#### **28 Discovery.**

- (1) Subject to and in accordance with rules of court and county court rules :—
- (a) in any civil proceedings in the High Court or a county court to which the Crown is a party, the Crown may be required by the court to make discovery of documents and produce documents for inspection ; and
  - (b) in any such proceedings as aforesaid, the Crown may be required by the court to answer interrogatories :

Provided that this section shall be without prejudice to any rule of law which authorises or requires the withholding of any document or the refusal to answer any question on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest.

Any order of the court made under the powers conferred by paragraph (b) of this subsection shall, direct by what officer of the Crown the interrogatories are to be answered.

- (2) Without prejudice to the proviso to the preceding subsection, any rules made for the purposes of this section shall be such as to secure that the existence of a document will not be disclosed if, in the opinion of a Minister of the Crown, it would be injurious to the public interest to disclose the existence thereof.

#### **29 Exclusion of proceedings in rem against the Crown.**

- (1) Nothing in this Act shall authorise proceedings in rem in respect of any claim against the Crown, or the arrest, detention or sale of any of His Majesty's ships or aircraft, or

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*Status: This is the original version (as it was originally enacted).*

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of any cargo or other property belonging to the Crown, or give to any person any lien on any such ship, aircraft, cargo or other property.

- (2) Where proceedings in rem have been instituted in the High Court or in a county court against any such ship, aircraft, cargo or other property, the court may, if satisfied, either on an application by the plaintiff for an order under this subsection or an application by the Crown to set aside the proceedings, that the proceedings were so instituted by the plaintiff in the reasonable belief that the ship, aircraft, cargo or other property did not belong to the Crown, order that the proceedings shall be treated as if they were in personam duly instituted against the Crown in accordance with the provisions of this Act, or duly instituted against any other person whom the court regards as the proper person to be sued in the circumstances, and that the proceedings shall continue accordingly.

Any such order may be made upon such terms, if any, as the court thinks just; and where the court makes any such order it may make such consequential orders as the court thinks expedient.

### **30 Limitation of actions.**

- (1) Section eight of the Maritime Conventions Act, 1911 (which relates to the limitation of actions in respect of damage or loss caused to or by vessels and the limitation of actions in respect of salvage services) shall except in the case of proceedings in respect of any alleged fault of a ship of war or a ship for the time being appropriated to the service of the armed forces of the Crown or to the service of the Post Office, apply in the case of His Majesty's ships as it applies in the case of other vessels :

Provided that the said section eight, as applied by this section, shall have effect as if the words from " and shall, if satisfied " to the end of the said section eight were omitted therefrom.

- (2) Subject to the provisions of the preceding subsection, nothing in this Act shall prejudice the right of the Crown to rely upon the law relating to the limitation of time for bringing proceedings against public authorities.
- (3) In this section the expression " ship " includes any boat or other description of vessel used in navigation, and the expression " His Majesty's ships " shall be construed accordingly.

### **31 Application to the Crown of certain statutory provisions.**

- (1) This Act shall not prejudice the right of the Crown to take advantage of the provisions of an Act of Parliament although not named therein ; and it is hereby declared that in any civil proceedings against the Crown the provisions of any Act of Parliament which could, if the proceedings were between subjects, be relied upon by the defendant as a defence to the proceedings, whether in whole or in part, or otherwise, may, subject to any express provision to the contrary, be so relied upon by the Crown.
- (2) Section six of the Debtors Act, 1869 (which empowers the court in certain circumstances to order the arrest of- a defendant about to quit England) shall, with any necessary modifications, apply to civil proceedings in the High Court by the Crown.

**32 No abatement on demise of Crown.**

No claim by or against the Crown, and no proceedings for the enforcement of any such claim, shall abate or be affected by the demise of the Crown.

**33 Abolition of certain writs.**

No writ of extent or of diem clausit extremum shall issue after the commencement of this Act.

**34 Proceedings in courts other than the High Court and county courts.**

- (1) His Majesty may by Order in Council make such provision as appears to him to be expedient with respect to civil proceedings by or against the Crown in any court not being the High Court or a county court.
- (2) An Order in Council made under this section may in particular—
  - (a) define the jurisdiction of the court to which the Order relates in civil proceedings by or against the Crown ; and
  - (b) apply, in relation to civil proceedings by or against the Crown in the said court, any provisions of this Act which would not otherwise apply in relation to those proceedings with such additions exceptions and modifications as appear to His Majesty to be expedient.
- (3) The provisions of any such Order shall have effect notwithstanding any provision made by or under any enactment with respect to the court in question; and any such Order may provide for amending or revoking any provision so made as aforesaid.
- (4) An Order in Council made under this section may be varied or revoked by a further Order in Council made by His Majesty thereunder.
- (5) An Order in Council under this section shall be laid before Parliament as soon as may be after it is made, and, if either House of Parliament, within the next twenty-eight days on which that House has sat after such an Order is laid before it, resolves that the Order be annulled, the Order shall thereupon cease to have effect except as respects things previously done or omitted to be done, without prejudice, however, to the making of a new Order.

Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, such an Order shall be deemed not to be a statutory rule to which that section applies.