



Crown Proceedings Act 1947

1947 CHAPTER 44 10 and 11 Geo 6

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

Supplemental

38 Interpretation.

- (1) Any reference in this Act to the provisions of this Act shall, unless the context otherwise requires, include a reference to rules of court ^{F1}... made for the purposes of this Act.
- (2) In this Act, except in so far as the context otherwise requires or it is otherwise expressly provided, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“Agent,” when used in relation to the Crown, includes an independent contractor employed by the Crown;

“Civil proceedings” includes proceedings in the High Court or the county court for the recovery of fines or penalties, but does not include proceedings on the Crown side of the King’s Bench Division;

“His Majesty’s aircraft” does not include aircraft belonging to His Majesty otherwise than in right of His Government in the United Kingdom [^{F2}or the Scottish Administration];

“His Majesty’s ships” means ships of which the beneficial interest is vested in His Majesty or which are registered as Government ships for the purposes of the [^{F3}Merchant Shipping Act 1995], or which are for the time being demised or subdemised to or in the exclusive possession of the Crown, except that the said expression does not include any ship in which His Majesty is interested otherwise than in right of His Government in the United Kingdom [^{F2}or the Scottish Administration] unless that ship is for the time being demised or subdemised to His Majesty in right of His said Government [^{F2}or Administration] or in the exclusive possession of His Majesty in that right;

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“Officer,” in relation to the Crown, includes any servant of His Majesty, and accordingly (but without prejudice to the generality of the foregoing provision) includes a Minister of the Crown [^{F2}and a member of the Scottish Executive];

“Order” includes a judgment, decree, rule, award or declaration;

“Prescribed” means prescribed by rules of court ^{F4}...;

“Proceedings against the Crown” includes a claim by way of set-off or counterclaim raised in proceedings by the Crown;

“Ship” has the [^{F3}the same meaning as in the Merchant Shipping Act 1995];

“Statutory duty” means any duty imposed by or under any Act of Parliament.

- (3) Any reference in this Act to His Majesty in His private capacity shall be construed as including a reference to His Majesty in right of His Duchy of Lancaster and to the Duke of Cornwall.
- (4) Any reference in Parts III or IV of this Act to civil proceedings by or against the Crown, or to civil proceedings to which the Crown is a party, shall be construed as including a reference to civil proceedings to which the Attorney General, or any Government department, or any officer of the Crown as such is a party:
Provided that the Crown shall not for the purposes of Parts III and IV of this Act be deemed to be a party to any proceedings by reason only that they are brought by the Attorney General upon the relation of some other person.
- (5) . . . ^{F5}
- (6) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any other enactment, including this Act.

Textual Amendments

- F1** Words in s. 38(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. 9(a)** (with art. 4)
- F2** Words in s. 38(2) inserted (20.5.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 7(2)**; (with s. 126(3)-(11)); [S.I. 1998/3178](#), art. 2(2), **Sch. 4**
- F3** Words in s. 38(2) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 21** (with s. 312(1), [Sch. 14 para. 1](#))
- F4** S. 38(2): words in definition of "Prescribed" 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. 9(b)** (with art. 4)
- F5** S.38(5) repealed (with saving) by [Armed Forces Act 1981 \(c.55, SIF 7:1\)](#), s. 28(2), **Sch. 5 Pt. I** note

Modifications etc. (not altering text)

- C1** S. 38(3) applied (1.4.2000) by 1999 c. 28, **s. 38(2)(b)**; [S.I. 2000/1066](#), art. 2
- C2** Ss. 21-42 excluded (S.) (18.4.2016) by [The Utilities Contracts \(Scotland\) Regulations 2016 \(S.S.I. 2016/49\)](#), regs. 1, **103(8)**
- C3** S. 38(3) applied by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), **s. 159(5)**
- C4** S. 38(3) applied (27.8.1993) by 1992 c. 12, **ss. 42(7), 51(2)** (with ss. 42, 46).
- C5** S. 38(3) applied by 1991 c. 56, **s. 221(5)** (as substituted (1.12.2000) by 1995 c. 25, s. 116, **Sch. 21 Pt. I para. 1(1)**; [S.I. 2000/3033](#), art. 2)
- C6** S. 38(3) applied by 1991 c. 57, **s. 222(6)** (as substituted (1.7.1997 for specified purposes and otherwise *prosp.*) by 1995 c. 25, ss. 116, 125(3), **Sch. 21 Pt. I para. 2(4)**; [S.I. 1997/1626](#), art. 2(b) (with art. 3))

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- C7** S. 38(3) applied (1.4.1996) by 1995 c. 25, s. **115(6)**; S.I. 1995/2950, art. **3(1)**, S.I. 1996/186, art. 3
- C8** S. 38(3) applied (16.9.1996) by 1996 c. 6, s. **37(4)** (with s. 37); S.I. 1996/2054, art. **2**
- C9** S. 38(3) applied (*prosp.*) by 1998 c. 7, ss. **14(4)**, 15(1) (with s. 14)
- C10** S. 38(3) applied (1.3.1999) by 1998 c. 33, s. **28(4)**, (with s. 28)
- C11** S. 38(3) applied (1.2.2001) by 2000 c. 38, s. **106(4)** (with s. 106); S.I. 2001/57, art. 3, **Sch. 2 Pt. I**
S. 38(3) applied (1.2.2001 for E., 1.8.2001 for W. and otherwise *prosp.*) by 2000 c. 38, ss. **196(5)**,
275(1) (with s. 196); S.I. 2001/57, art. 3(2), **Sch. 3 Pt. I**; S.I. 2001/2788, art. 2, **Sch. 1 para. 17**
S. 38(3) applied (14.12.2001) by 2001 c. 24, s. **15(3)** (with s. 14(3))
- C12** S. 38(3) applied (8.10.2008 at 8:10 a.m.) by The Landsbanki Freezing Order 2008 (S.I. 2008/2668),
art. 13(3) (with art. 13)
- C13** S. 38(3): **Sch. 7** of the amending Act to be construed as if this provision were contained in that
Schedule (27.11.2008) by virtue of Counter-Terrorism Act 2008 (c. 28), ss. 62, 100(2), **Sch. 7 para.**
43(4) (with s. 100(2), Sch. 7 para. 43(1)-(3))
- C14** S. 38(3) applied (24.4.2009) by The Zimbabwe (Financial Sanctions) Regulations 2009 (S.I.
2009/847), **reg. 16(3)**
- C15** S. 38(3) applied (25.3.2010) by Cluster Munitions (Prohibitions) Act 2010 (c. 11), ss. **32(6)**, 34(1)
- C16** S. 38(3) applied (26.3.2012) by The Iran (European Union Financial Sanctions) Regulations 2012 (S.I.
2012/925), regs. 1(1), **26(5)** (with reg. 26(1)(2)(4))
- C17** S. 38(3) applied (5.7.2012) by The Liberia (Asset-Freezing) Regulations 2012 (S.I. 2012/1516), regs.
1(1), **17(5)** (with reg. 17(1)-(4))
- C18** S. 38(3) applied (5.7.2012) by The Lebanon and Syria (Asset-Freezing) Regulations 2012 (S.I.
2012/1517), regs. 1(1), **17(5)** (with reg. 17(1)-(4))
- C19** S. 38(3) applied (5.7.2012) by The Eritrea (Asset-Freezing) Regulations 2012 (S.I. 2012/1515), regs.
1(1), **17(5)** (with reg. 17(1)-(4))
- C20** S. 38(3) applied (21.2.2013) by The Belarus (Asset-Freezing) Regulations 2013 (S.I. 2013/164), regs.
1(1), **17(5)** (with reg. 17)
- C21** S. 38(3) applied (6.4.2013) by Civil Aviation Act 2012 (c. 19), ss. **77(4)**, 110(1) (with s. 77(1)-(3), Sch.
10 paras. 12, 17); S.I. 2013/589, art. 2(1)-(3)
- C22** S. 38(3) applied (16.8.2013) by The Democratic People's Republic of Korea (European Union
Financial Sanctions) Regulations 2013 (S.I. 2013/1877), regs. 1(1), **21(5)** (with reg. 21(1)-(4))
- C23** S. 38(3) applied (N.I.) (31.8.2013) by The Electricity and Gas (Market Integrity and Transparency)
(Enforcement etc.) Regulations (Northern Ireland) 2013 (S.R. 2013/208), reg. 1, **Sch. 1 para. 3(2)**
(with Sch. 1)
- C24** S. 38(3) applied (14.3.2014) by The Central African Republic (European Union Financial Sanctions)
Regulations 2014 (S.I. 2014/587), regs. 1(1), **17(5)** (with reg. 17(1)-(4))
- C25** S. 38(3) applied (6.4.2014) by The Ukraine (European Union Financial Sanctions) Regulations 2014
(S.I. 2014/507), regs. 1(1), **17(5)** (with reg. 17)
- C26** S. 38(3) applied (11.7.2014) by The South Sudan (European Union Financial Sanctions) Regulations
2014 (S.I. 2014/1827), regs. 1(1), **17(5)** (with reg. 17(1)-(4))
- C27** S. 38(3) applied (19.12.2014) by The Yemen (European Union Financial Sanctions) Regulations 2014
(S.I. 2014/3349), regs. 1(1), **17(5)** (with reg. 17(1)-(4))
- C28** S. 38(3) applied (2.10.2015) by The Burundi (European Union Financial Sanctions) Regulations 2015
(S.I. 2015/1740), regs. 1(1), **17(5)** (with reg. 17(1)-(4))
- C29** S. 38(3) applied (23.2.2017) by Cultural Property (Armed Conflicts) Act 2017 (c. 6), ss. **30(6)**, 32(1)
(with s. 30)
- C30** S. 38(3) applied (6.12.2017) by The Venezuela (European Union Financial Sanctions) Regulations
2017 (S.I. 2017/1094), regs. 1(1), **17(5)** (with reg. 17)
- C31** S. 38(3) applied (21.5.2018) by The Burma (European Union Financial Sanctions) Regulations 2018
(S.I. 2018/539), regs. 1(1), **17(5)** (with reg. 17)
- C32** S. 38(3) applied (8.8.2018) by The Republic of Maldives (Asset-Freezing) Regulations 2018 (S.I.
2018/861), regs. 1(1), **17(5)**
- C33** S. 38(3) amended by Animals Act 1971 (c. 22), s. **12(2)**

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