



Crown Proceedings Act 1947

1947 CHAPTER 44 10 and 11 Geo 6

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

Supplemental

40 Savings.

- (1) Nothing in this Act shall apply to proceedings by or against, or authorise proceedings in tort to be brought against, His Majesty in His private capacity.
- (2) Except as therein otherwise expressly provided, nothing in this Act shall:—
 - (a) affect the law relating to prize salvage, or apply to proceedings in causes or matters within the jurisdiction of the High Court as a prize court or to any criminal proceedings; or
 - (b) authorise proceedings to be taken against the Crown under or in accordance with this Act in respect of any alleged liability of the Crown arising otherwise than in respect of His Majesty's Government in the United Kingdom [^{F1}or the Scottish Administration], or affect proceedings against the Crown in respect of any such alleged liability as aforesaid; or
 - (c) affect any proceedings by the Crown otherwise than in right of His Majesty's Government in the United Kingdom [^{F1}or the Scottish Administration]; or
 - (d) subject the Crown to any greater liabilities in respect of the acts or omissions of any independent contractor employed by the Crown than those to which the Crown would be subject in respect of such acts or omissions if it were a private person; or
 - [^{F2}(e) subject the Crown, in its capacity as a highway authority, to any greater liability than that to which a local authority is subject in that capacity; or]
 - (f) affect any rules of evidence or any presumption relating to the extent to which the Crown is bound by any Act of Parliament; or
 - (g) affect any right of the Crown to demand a trial at bar or to control or otherwise intervene in proceedings affecting its rights, property or profits; or

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Changes to legislation: There are currently no known outstanding effects for the Crown Proceedings Act 1947, Section 40. (See end of Document for details)

- (h) affect any liability imposed on the public trustee [^{F3}or on the Consolidated Fund of the United Kingdom] by the ^{M1}Public Trustee Act 1906;
and, without prejudice to the general effect of the foregoing provisions, Part III of this Act shall not apply to the Crown except in right of His Majesty's Government in the United Kingdom [^{F1}or the Scottish Administration].
- (3) A certificate of a Secretary of State:—
- (a) to the effect that any alleged liability of the Crown arises otherwise than in respect of His Majesty's Government in the United Kingdom;
 - (b) to the effect that any proceedings by the Crown are proceedings otherwise than in right of His Majesty's Government in the United Kingdom;
- shall, for the purposes of this Act, be conclusive as to the matter so certified.
- [^{F4}(3A) A certificate of the Scottish Ministers to the effect that—
- (a) any alleged liability of the Crown arises otherwise than in respect of the Scottish Administration,
 - (b) any proceedings by the Crown are proceedings otherwise than in right of the Scottish Administration,
- shall, for the purposes of this Act, be conclusive as to that matter.]
- (4) Where any property vests in the Crown by virtue of any rule of law which operates independently of the acts or the intentions of the Crown, the Crown shall not by virtue of this Act be subject to any liabilities in tort by reason only of the property being so vested; but the provisions of this subsection shall be without prejudice to the liabilities of the Crown under this Act in respect of any period after the Crown or any person acting for the Crown has in fact taken possession or control of any such property, or entered into occupation thereof.
- (5) This Act shall not operate to limit the discretion of the court to grant relief by way of mandamus in cases in which such relief might have been granted before the commencement of this Act, notwithstanding that by reason of the provisions of this Act some other and further remedy is available.

Textual Amendments

- F1** Words in s. 40(2) inserted (20.5.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 7(3)(a)** (with s. 126(3)-(11)); S.I. 1998/3178, art. 2(2), **Sch. 4**
- F2** S. 40(2)(e) repealed (E.W.) by Highways (Miscellaneous Provisions) Act 1961 (c. 63), **s. 1(6)(8)**
- F3** Words in s. 40(2)(h) repealed (E.W.) (7.11.2002) by 2002 c. 35, **s. 1(2)**
- F4** S. 40(3A) inserted (20.5.1999) by 1998 c. 46, s. 125, **Sch. 8 para. 7(3)(b)** (with s. 126(3)-(11)); S.I. 1998/3178, art. 2(2), **Sch. 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)**

Marginal Citations

- M1** 1906 c. 55.

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