



# Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

## 1951 CHAPTER 65

### PART I

#### PROTECTION AGAINST CERTAIN LEGAL REMEDIES

##### *Effect of failure to observe restrictions under Part I*

#### **13 Effect of failure to observe restrictions under Part I**

- (1) Omission to obtain leave required under section two of this Act, failure to observe a restriction or condition subject to which leave so required was given, or contravention of the prohibition in subsection (5) of section four of this Act against dealing with goods, shall not render invalid, or alter the effect of—
  - (a) anything which would have operated as a transfer of the title to any property or of the possession of any property if leave had not been required or the restriction, condition or prohibition had not been imposed ;
  - (b) any payment, receipt, appointment or other transaction ; or
  - (c) any legal proceedings.
- (2) In any action for damages for conversion or other proceedings which lie by virtue of any such omission, failure or contravention, the court may take account of the conduct of the defendant with a view, if the court thinks fit, to awarding exemplary damages in respect of the wrong sustained by the plaintiff.
- (3) If in any action or proceedings which lie by virtue of any such omission, failure or contravention the court is satisfied that the defendant acted honestly and reasonably, and ought fairly to be excused for it, the court may relieve the defendant from liability in respect thereof.
- (4) In so far as it appears to the appropriate court to be practicable to remedy the results of any such omission, failure or contravention as aforesaid specifically without prejudice to the interests of third parties, the court may give any such directions for restoration

of property, repayment of money or other measures as may appear to the court to be requisite for that purpose.

In this subsection the expression " third parties " means persons other than—

- (a) in the case of such an omission or failure in connection with the enforcement of a judgment or order or the exercise of a remedy, the person proceeding thereto and any person acting in relation thereto on his behalf;
  - (b) in the case of an omission to obtain leave for instituting such proceedings as are mentioned in paragraph (b) of subsection (2) of section two of this Act or for taking a step in such proceedings, the person instituting the proceedings or taking the step in question;
  - (c) in the case of a contravention of the prohibition in subsection (5) of section four of this Act, the owner of the goods; and
  - (d) in any of the cases aforesaid, any person taking a transfer of the title to or possession of any property under a transaction in connection with which the omission, failure or contravention took place, if he took with knowledge of the circumstances which rendered what was done such an omission, failure or contravention.
- (5) In relation to an action or other proceedings tried by a judge and jury—
- (a) the references to the court in subsections (2) and (3) of this section shall be construed as references to the jury, but without prejudice to the power of the judge to give to the jury directions whether there is any evidence of facts justifying an award of exemplary damages on the one hand or the granting of relief on the other hand, or to give them advice as to the making of such an award or grant;
  - (b) the references to the court in subsection (4) of this section shall be construed as references to the judge alone.
- (6) This section shall apply to Scotland subject to the following modifications:—
- (a) for references to section two or to subsection (5) of section four of this Act there shall be respectively substituted references to section eight or to subsection (2) of section ten of this Act;
  - (b) paragraph (b) of subsection (4) of this section shall be omitted;
  - (c) the expression " plaintiff " means pursuer and the expression " defendant " means defender and any reference to a judgment shall include a reference to a decree.