

1981 No. 233

CROWN PROCEEDINGS

The Crown Proceedings (Northern Ireland) Order 1981

Made - - - - 18th February 1981

Laid before Parliament 26th February 1981

Coming into operation in accordance with Article 1(1)

At the Court at Buckingham Palace, the 18th day of February 1981

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 53 of the Crown Proceedings Act 1947(a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

GENERAL

1.—(1) This Order may be cited as the Crown Proceedings (Northern Ireland) Order 1981, and, subject to paragraph (3) of this Article so far as it relates to Part II of Schedule 1 and to Article 6 (2) of this Order, shall come into operation on 19th March 1981.

(2) In this Order “the Act” means the Crown Proceedings Act 1947.

(3) The enactments and instruments specified in columns 1 and 2 of Schedule 1 to this Order are hereby respectively repealed and revoked to the extent specified in column 3 of that Schedule, the revocation specified in Part II of that Schedule having effect on the date mentioned in Article 6 (2).

(4) For convenience of reference the Act, as it extends to Northern Ireland by virtue of this Order, is set out—

(a) in Schedule 2 as it applies to the Crown in right of Her Majesty's Government in the United Kingdom;

(b) in Schedule 3 as it applies to the Crown in right of Her Majesty's Government in Northern Ireland.

(5) This Order extends only to Northern Ireland.

(a) 1947 c. 44.

PART II

EXTENSION OF THE ACT TO NORTHERN IRELAND

2. The provisions of the Act shall extend to Northern Ireland—
- (a) in relation to Her Majesty's Government in the United Kingdom, with the additions, exceptions and modifications set out in Part III of this Order;
 - (b) in relation to Her Majesty's Government in Northern Ireland, with those additions, exceptions and modifications, but subject to the further additions, exceptions and modifications set out in Part IV of this Order.

PART III

ADDITIONS AND EXCEPTIONS TO, AND MODIFICATIONS OF, THE ACT IN ITS APPLICATION TO THE CROWN IN RIGHT OF BOTH HER MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND (SUBJECT TO PART IV) HER MAJESTY'S GOVERNMENT IN NORTHERN IRELAND

3. For any reference to the commencement of the Act there shall be substituted a reference to 1st January 1950 (the date of coming into operation of the Northern Ireland (Crown Proceedings) Order 1949(a)).

4. In section 2(6) the words "the Road Fund" shall be excepted.

5. For section 4 there shall be substituted the following section:—

"Applica-
tion of law
as to
indemnity,
contribu-
tion, joint
and several
tortfeasors
and con-
tributory
negligence.

4.—(1) Where the Crown is subject to any liability by virtue of this Part of this Act, the law for the time being in force in Northern Ireland relating to indemnity and contribution shall be enforceable by or against the Crown in respect of the liability to which it is so subject as if the Crown were a private person of full age and capacity.

(2) Without prejudice to the general effect of section 2 of this Act, section 2 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (which amends the law relating to contributory negligence), and so much of sections 4 and 6 of that Act as relates to section 2 thereof, shall bind the Crown, so however that in relation to proceedings against the Crown the references in subsection (1) of the said section 4 to the passing of that Act of 1948 shall be construed as references to 1st January 1950."

6.—(1) In section 5(6)(b) for "Great Britain" there shall be substituted "Northern Ireland".

(2) This Article shall be revoked on the date on which paragraph 3 of Schedule 5 to the Merchant Shipping Act 1979(b) (which substitutes a new section for section 5) comes into force.

(a) S.I. 1949/1836.

(b) 1979 c. 39.

7. Section 12 shall be excepted.
8. In section 13, the words from “In this section” to the end shall be excepted.
9. At the end of section 14 there shall be inserted the following subsection:—
- “(3) References in subsection (2) above to excise duties do not include any tax (being a tax to which paragraph 8 of Schedule 2 to the Northern Ireland Constitution Act 1973 does not apply) levied under any enactment such as is mentioned in section 38(7) of this Act.”.
10. In section 15(1) after “civil proceedings” there shall be inserted “by or”.
11. For section 16 there shall be substituted the following section:—
- ^{“Inter-pleader.”} 16. The Crown may obtain relief by way of interpleader proceedings, and may be made a party to such proceedings, in the same manner in which a subject may obtain relief by way of such proceedings or be made a party thereto; and the provisions of Article 44 of the Judgments Enforcement (Northern Ireland) Order 1981 relating to interpleader proceedings shall, subject to the provisions of this Act, have effect accordingly.”.
- 12.—(1) For section 17(1) there shall be substituted the following subsection:—
- “(1) The Department of the Civil Service for Northern Ireland shall publish a list specifying the several departments of the Government of the United Kingdom which are authorised departments for the purposes of this Act in Northern Ireland, and the name and address for service of the person who is, or is acting for the purposes of this Act as, the solicitor in Northern Ireland for each such department, and may from time to time amend or vary the said list. The said list may in relation to any such department specify different solicitors for different types of proceedings.
- Any document purporting to be a copy of a list published under this section and purporting to be printed under the superintendence or the authority of His Majesty’s Stationery Office shall in any legal proceedings be received as evidence for the purpose of establishing what departments are authorised departments for the purposes of this Act, and what person is, or is acting for the purposes of this Act as, the solicitor in Northern Ireland for any such department.”.
- (2) After section 17(3) there shall be inserted the following subsection:—
- “(3A) Civil proceedings against the Crown may be instituted in Northern Ireland against the Attorney General if the alleged liability arises out of the performance of any function pursuant to an agency arrangement or the person instituting the proceedings has any reasonable doubt whether the alleged liability of the Crown arises in respect of His Majesty’s Government in the United Kingdom or in respect of His Majesty’s Government in Northern Ireland.”.
13. In section 18 for “the Solicitor for the affairs of His Majesty’s Treasury” there shall be substituted “the Crown Solicitor for Northern Ireland”.

14. Section 19(1) shall be excepted.

15. In section 20(2) the words “or transfer” shall be excepted, for “transfer” where secondly occurring there shall be substituted “remittal”, at the beginning of paragraph (a) of the proviso there shall be inserted “in accordance with section 31(8) (c) of the Judicature (Northern Ireland) Act 1978,” and in that paragraph for “transfer” there shall be substituted “remittal”; and for paragraph (b) of the proviso there shall be substituted the following paragraphs:—

“(b) in accordance with section 31(8) (b) of that Act, no enactment or rule of court shall have effect so as to require security to be given by the Crown, or so as to authorise the making of an order requiring security to be given by the Crown, in respect of any proceedings removed or transferred from a county court to the High Court; and

(c) the provisions of any enactment or rule of court relating to costs in actions brought in the High Court which could have been brought in an inferior court shall not apply to any proceedings by the Crown.”

16. After section 21 there shall be inserted the following section:—

“Costs in civil proceedings to which the Crown is a party.

21A. In any civil proceedings or proceedings in any arbitration to which the Crown is a party, the costs of and incidental to the proceedings shall be awarded in the same manner and on the same principles as in cases between subjects, and the court or arbitrator shall have power to make an order for the payment of costs by or to the Crown accordingly:

Provided that—

(a) in the case of proceedings to which by reason of any enactment or otherwise the Attorney General, a Government department or any officer of the Crown as such is authorised to be made a party, the court or arbitrator shall have regard to the nature of the proceedings and the character and circumstances in which the Attorney General, department or officer appears, and may in the exercise of its or his discretion order any other party to the proceedings to pay the costs of the Attorney General, department or officer, whatever may be the result of the proceedings; and

(b) nothing in this section shall affect the power of the court or arbitrator to order, or any enactment providing for, the payment of costs out of any particular fund or property, or any enactment expressly relieving any department or officer of the Crown of the liability to pay costs.”

17. In section 22 after “execution” there shall be inserted “and all enactments and Judgment Enforcement Rules relating to stay of enforcement of judgments”.

18. For section 23(3) there shall be substituted the following subsection:—

“(3) Notwithstanding anything in the preceding provisions of this section, the provisions of this Part of this Act shall not have effect with respect to any of the following proceedings brought by or against the Crown in right of His Majesty’s Government in the United Kingdom, that is to say:—

(a) proceedings brought by the Attorney General on the relation of some other person;

- (b) proceedings by or against the Public Trustee;
- (c) proceedings by or against the Land Purchase Trustee for Northern Ireland.”.

19.—(1) For section 24(1) there shall be substituted the following subsection:—

“(1) Article 127 of the Judgments Enforcement (Northern Ireland) Order 1981 (which provides that a money judgment shall, subject to certain exceptions and to any contrary provision in the judgment, carry interest) shall apply to money judgments given against or in favour of the Crown.”.

(2) Section 24(2) shall be excepted.

(3) In section 24(3) for the reference to section 3 of the Law Reform (Miscellaneous Provisions) Act 1934(a) there shall be substituted a reference to section 17 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1937(b).

20. In section 25—

- (a) in subsection (1) for “in any proceedings on the Crown side of the King’s Bench Division” there shall be substituted “on any application for judicial review pursuant to section 18 of the Judicature (Northern Ireland) Act 1978”;
- (b) in subsection (4) for “no execution or attachment or process in the nature thereof shall be issued out of any court” there shall be substituted “no order or process in the nature of execution shall be made by or issued out of any court, and no enforcement order shall be made by the Enforcement of Judgments Office,”.

21. For section 26(2) there shall be substituted the following subsections:—

“(2) Without prejudice to the generality of subsection (1) above, the Judgments Enforcement (Northern Ireland) Order 1981, Judgment Enforcement Rules and rules of court shall, save as otherwise provided by any statutory provision within the meaning of that Order, apply to judgments given in favour of the Crown.

(2A) Articles 106 and 107 of that Order of 1981 (which relate respectively to limitation on arrest and imprisonment of debtors and to committal for default) shall apply to sums of money payable and debts due to the Crown.

(2B) Articles 115 and 125 of that Order of 1981 (which relate respectively to committal for contempt in certain cases of default and to the effect of imprisonment under Article 107 or 115) shall—

- (a) have effect in relation to sums of money payable and debts due to the Crown; and
- (b) have effect as if those provisions in terms applied to default in payment of any sum payable in respect of estate duty.”

(a) 1934 c. 41.

(b) 1937 c. 9 (N.I.).

22. For section 27 there shall be substituted the following section:—

“Attach-
ment of
moneys
payable by
the Crown.

27.—(1) Except as provided in subsection (4), this section applies where any money is payable by the Crown to some person (“the debtor”) who, under an order of a court, is liable to pay any money to another person (“the creditor”).

(2) Where the creditor would, if the money so payable by the Crown were money payable by a subject, be entitled under the Judgments Enforcement (Northern Ireland) Order 1981 to obtain from the Enforcement of Judgments Office, or under matrimonial causes rules made under Article 54 of the Matrimonial Causes (Northern Ireland) Order 1978 to obtain from the High Court or a divorce county court, an order for the attachment of the money as a debt due or accruing due, or an order for the appointment of a receiver to receive the money on his behalf, the Enforcement of Judgments Office, or, as the case may be, the High Court or the divorce county court, may, subject to the provisions of this Act,—

- (a) make an order restraining the debtor from receiving the money payable by the Crown and directing its payment to the creditor (and such payment shall be a valid discharge to the Crown); or
- (b) make an order appointing a receiver in accordance with the Judgments Enforcement (Northern Ireland) Order 1981 or, as the case may be, matrimonial causes rules.

(3) Where the debtor is a company and a sequestration order is made against it by a court under Article 113 of that Order of 1981, the court may also make an order restraining the debtor from receiving the money payable by the Crown and directing its payment to the sequestrator (and such payment shall be a valid discharge to the Crown).

(4) An order shall not be made under subsection (2) or (3) in respect of—

- (a) any wages or salary payable to any officer of the Crown as such;
- (b) any money which is subject to the provisions of any enactment prohibiting or restricting assignment or charging or taking in execution or in the enforcement of a judgment; or
- (c) any money payable by the Crown to any person on account of a deposit in the National Savings Bank.

(5) This section does not prejudice section 75 of the Judgments (Enforcement) Act (Northern Ireland) 1969 or Article 75 or Article 101 of the Judgments Enforcement (Northern Ireland) Order 1981 (attachment of earnings of persons employed under the Crown).”

23. Section 31(2) shall be excepted.

24. In section 35 in subsection (2)(a) after “Kingdom” there shall be inserted “or, in the case of county court rules, are not resident in Northern Ireland”, and in subsection (2)(d), for “and for enabling any such proceedings to be put in proper cases into any special list which may be kept for the trial of short causes in which leave to defend is given under any such rule of court as aforesaid” there shall be substituted “or of any county court rule providing for process by default.”

25. At the end of section 37 there shall be added the following subsection:—

“(3) Any order under section 25 of this Act, or otherwise as the result of the passing of this Act, in any proceedings brought against the Attorney General in accordance with section 17(3A) of this Act shall be satisfied by the Department of Finance out of money either appropriated or advanced to the Department by the Treasury for the purpose, so however that any sum expended by the Department in such satisfaction shall be defrayed out of the Consolidated Fund and the Consolidated Fund of Northern Ireland in such proportions as may be agreed in that behalf between the Treasury and the Department.”.

26.—(1) In section 38(2) the following definitions shall be inserted at the appropriate points in alphabetical order:—

“Agency arrangement” means an arrangement such as is mentioned in section 11 of the Northern Ireland Constitution Act 1973;

“Attorney General” means the Attorney General for Northern Ireland;

“County court” means a county court in Northern Ireland;

“County court rules” has the same meaning as in section 21(5) of the Interpretation Act (Northern Ireland) 1954;

“Department of Finance” means the Department of Finance for Northern Ireland;

“High Court” (except in a reference to that court as a prize court) means the High Court of Justice in Northern Ireland;

“Royal Courts of Justice” means those courts at Belfast;

“Rules of court” has the same meaning as in section 21(4) of the Interpretation Act (Northern Ireland) 1954.

(2) In section 38(2)—

(a) in the definition of “Civil proceedings” for “proceedings on the Crown side of the King’s Bench Division” there shall be substituted “an application for judicial review pursuant to section 18 of the Judicature (Northern Ireland) Act 1978”;

(b) at the end of the definition of “Order” there shall be inserted “or a dismiss by a county court”;

(c) in the definition of “Statutory duty” for “Act of Parliament” there shall be substituted “enactment”.

(3) At the end of section 38 there shall be added the following subsection:—

“(7) Any reference (however expressed) in this Act to an enactment or an Act includes an enactment of the Irish Parliament, the Parliament of Northern Ireland or the Northern Ireland Assembly or an enactment contained in an Order in Council made under section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972 or paragraph 1 of Schedule 1 to the Northern Ireland Act 1974.”.

27.—(1) In section 40(2), after “without prejudice to the general effect of the foregoing provisions” there shall be inserted “but subject to the provisions of section 17(3A) and section 37(3) of this Act”.

(2) In section 40(3), in paragraph (a) for “otherwise than in respect of His Majesty’s Government in the United Kingdom” there shall be substituted “neither in respect of His Majesty’s Government in the United Kingdom nor in respect of His Majesty’s Government in Northern Ireland”, and in paragraph (b) for “otherwise than in right of His Majesty’s Government in the United Kingdom” there shall be substituted “neither in right of His Majesty’s Government in the United Kingdom nor in right of His Majesty’s Government in Northern Ireland”.

28. Part V and section 52 shall be excepted.

PART IV

FURTHER ADDITIONS AND EXCEPTIONS TO, AND MODIFICATIONS OF, THE ACT IN ITS APPLICATION TO THE CROWN IN RIGHT OF HER MAJESTY’S GOVERNMENT IN NORTHERN IRELAND

29. The following provisions of the Act, that is to say,—

in section 3(2) the words from “or the rights” onwards, section 10, in section 11(1) the words from “or of training” onwards, in section 17(5) the words “or an authorised Government department” and the words from “or in” onwards, section 26(2B)(b)(a), section 27(4)(c)(b), section 38(3) and (5), section 40(2)(h), and in Schedule 1, paragraph 2(1), the words from “including” onwards,

shall be excepted from the Act in its application to the Crown in right of Her Majesty’s Government in Northern Ireland.

30.—(1) For any reference (except in section 17(3A)(c), section 40(3)(d) or section 53 and except the second reference in section 32) to the Crown (including, except as aforesaid, any express reference which is to be construed as one to the Crown in right of Her Majesty’s Government in the United Kingdom) there shall be substituted a reference to be construed as one to the Crown in right of Her Majesty’s Government in Northern Ireland; for any reference which is to be construed as one to Her Majesty in right of Her Government in the United Kingdom there shall be substituted a reference to be construed as one to Her Majesty in right of Her Government in Northern Ireland; for any reference to a Government department there shall be substituted a reference to a Northern Ireland department; and for any reference which is to be construed as one to an officer, servant or agent of Her Majesty or an officer, servant or agent of the Crown or for any reference to a Minister of the Crown (except the references in sections 36 and 40(3) to the Secretary of State) there shall be substituted respectively a reference to be construed as one to an officer, servant or agent of Her Majesty’s Government in Northern Ireland or a reference to the Head of a Northern Ireland department.

(2) For the references in section 2(6) to the Treasury and the Consolidated Fund of the United Kingdom there shall be substituted respectively references to the Department of Finance for Northern Ireland and the Consolidated Fund of

(a) See Article 21 above.

(b) See Article 22 above.

(c) See Article 12(2) above.

(d) See Article 27(2) above.

Northern Ireland; for any reference to moneys provided by Parliament for any purpose there shall be substituted a reference to moneys appropriated for that purpose; and for any reference to taxes, duties or penalties there shall be substituted respectively a reference to such taxes, duties or penalties as the Northern Ireland Assembly has power to impose.

31. For section 14 there shall be substituted the following section:—

“Summary applications to High Court in certain matters concerning Northern Ireland revenue.”

14. Subject to and in accordance with rules of court, the Crown in right of His Majesty’s Government in Northern Ireland may apply in a summary manner to the High Court—

- (a) for the payment of any tax (being a tax to which paragraph 8 of Schedule 2 to the Northern Ireland Constitution Act 1973 does not apply) levied under any enactment such as is mentioned in section 38(7) of this Act;
- (b) for the delivery of any account required to be delivered, or the furnishing of any information required to be furnished, in connection with such a tax by any such enactment or by any instrument made thereunder.”.

32. In section 17(1)(a) the words “in Northern Ireland”, where first occurring, shall be excepted.

33. For section 23(3)(b) there shall be substituted the following subsection:—

“(3) Notwithstanding anything in the preceding provisions of this section, the provisions of this Part of this Act shall not have effect with respect to any of the following proceedings brought by or against the Crown in right of His Majesty’s Government in Northern Ireland, that is to say—

- (a) proceedings brought by the Attorney General on the relation of some other person;
- (b) proceedings in respect of charities by or against the Attorney General;
- (c) proceedings by or against the Department of Finance acting in pursuance of any enactment relating to charities;
- (d) proceedings by or against the Registrar of Titles in Northern Ireland or any officers of the Land Registry of Northern Ireland or proceedings for compensation under section 71 of the Land Registration Act (Northern Ireland) 1970.”.

34. In section 37(2) for “the Exchequer” there shall be substituted “the Consolidated Fund of Northern Ireland”.

35. In section 40(2)(f) after “presumption” there shall be inserted “or enactment”.

N. E. Leigh,
Clerk of the Privy Council.

(a) See Article 12 above.

(b) See Article 18 above.

SCHEDULE 1

Article 1(3)

REPEALS AND REVOCATIONS

Number or Chapter	Title or Short Title	Extent of Repeal or Revocation
PART I		
IMMEDIATE REPEALS OR REVOCATIONS		
S.I. 1949/1836.	Northern Ireland (Crown Proceedings) Order 1949.	The whole Order.
6 & 7 Eliz. 2 c. 62.	Merchant Shipping (Liability of Shipowners and Others) Act 1958.	Section 10(2).
1965 c. 47.	Merchant Shipping Act 1965.	Section 5(2).
1969 c. 48.	Post Office Act 1969.	Section 94(3).
1969 c. 30 (N.I.).	Judgments (Enforcement) Act (Northern Ireland) 1969.	Section 128 (except subsection (1A)(a)). Schedule 4, Part I.
S.I. 1971/212.	Northern Ireland (Crown Proceedings) (Amendment) Order 1971.	The whole Order.
1972 c. 41.	Finance Act 1972.	In section 55(1) the words "and in section 14 of that Act as it applies in Northern Ireland".
1975 c. 7.	Finance Act 1975.	In Schedule 12, paragraph 9.
1978 c. 23.	Judicature (Northern Ireland) Act 1978.	Section 118(2). In Schedule 5, the amendments of the Crown Proceedings Act 1947 and the amendment of section 128(1) of the Judgments (Enforcement) Act (Northern Ireland) 1969.
PART II		
DEFERRED REVOCATION		
S.I. 1981/233	Crown Proceedings (Northern Ireland) Order 1981.	Article 6.

(a) Subsection (1A) was inserted by S.I. 1979/296 (N.I. 3) Art. 32.

SCHEDULE 2

Article 1(4)(a)

THE CROWN PROCEEDINGS ACT 1947 (C. 44) AS EXTENDED TO NORTHERN IRELAND
AND APPLIED TO THE CROWN IN RIGHT OF HER MAJESTY'S GOVERNMENT IN THE
UNITED KINGDOM

Note: This text is provided for convenience of reference. Additions and modifications made by the Order are printed in square brackets; exceptions made by the Order are indicated by italics in square brackets; and provisions of the Act repealed before the making of the Order are indicated by dots.

AN ACT to amend the law relating to the civil liabilities and rights of the Crown and to civil proceedings by and against the Crown, to amend the law relating to the civil liabilities of persons other than the Crown in certain cases involving the affairs or property of the Crown, and for purposes connected with the matters aforesaid.

[31st July 1947.]

PART I(a)

SUBSTANTIVE LAW

Right to sue
the Crown.
S.I.1949/1836

1. Where any person has a claim against the Crown after [1st January 1950 (the date of the coming into operation of the Northern Ireland Crown Proceedings Order 1949)], and, if this Act had not been passed, the claim might have been enforced, subject to the grant of His(b) Majesty's fiat, by petition of right, or might have been enforced by a proceeding provided by any statutory provision repealed by this Act, then, subject to the provisions of this Act, the claim may be enforced as of right, and without the fiat of His Majesty, by proceedings taken against the Crown for that purpose in accordance with the provisions of this Act.

Liability of
the Crown
in tort.

2(c).—(1) Subject to the provisions of this Act, the Crown shall be subject to all those liabilities in tort to which, if it were a private person of full age and capacity, it would be subject:—

- (a) in respect of torts committed by its servants or agents;
- (b) in respect of any breach of those duties which a person owes to his servants or agents at common law by reason of being their employer; and
- (c) in respect of any breach of the duties attaching at common law to the ownership, occupation, possession or control of property:

Provided that no proceedings shall lie against the Crown by virtue of paragraph (a) of this subsection in respect of any act or omission of a servant or agent of the Crown unless the act or omission would apart from the provisions of this Act have given rise to a cause of action in tort against that servant or agent or his estate.

(2) Where the Crown is bound by a statutory duty which is binding also upon persons other than the Crown and its officers, then, subject to the provisions of this Act, the Crown shall, in respect of a failure to comply with that duty, be subject to all those liabilities in tort (if any) to which it would be so subject if it were a private person of full age and capacity.

(a) Modified (plant breeders' rights) 1964 c. 14, s. 14.

(b) To be construed as reference to Sovereign for time being 1978 c. 30, s. 10.

(c) Applied (occupiers' liability) 1957 c. 25 (N.I.), s. 6.

(3) Where any functions are conferred or imposed upon an officer of the Crown as such either by any rule of the common law or by statute, and that officer commits a tort while performing or purporting to perform those functions, the liabilities of the Crown in respect of the tort shall be such as they would have been if those functions had been conferred or imposed solely by virtue of instructions lawfully given by the Crown.

(4) Any enactment which negatives or limits the amount of the liability of any Government department or officer of the Crown in respect of any tort committed by that department or officer shall, in the case of proceedings against the Crown under this section in respect of a tort committed by that department or officer, apply in relation to the Crown as it would have applied in relation to that department or officer if the proceedings against the Crown had been proceedings against that department or officer.

(5) No proceedings shall lie against the Crown by virtue of this section in respect of anything done or omitted to be done by any person while discharging or purporting to discharge any responsibilities of a judicial nature vested in him, or any responsibilities which he has in connection with the execution of judicial process.

(6) No proceedings shall lie against the Crown by virtue of this section in respect of any act, neglect or default of any officer of the Crown, unless that officer has been directly or indirectly appointed by the Crown and was at the material time paid in respect of his duties as an officer of the Crown wholly out of the Consolidated Fund of the United Kingdom, moneys provided by Parliament, [*words excepted*] or any other Fund certified by the Treasury for the purposes of this subsection or was at the material time holding an office in respect of which the Treasury certify that the holder thereof would normally be so paid.

3(a).—(1) Where after [1st January 1950] any servant or agent of the Crown infringes a patent, or infringes a registered trade mark, or infringes any copyright (including any copyright in a design subsisting under the Patents and Designs Acts, 1907 to 1946) and the infringement is committed with the authority of the Crown, then, subject to the provisions of this Act, civil proceedings in respect of the infringement shall lie against the Crown.

Provisions as to industrial property.

(2)(b) Nothing in the preceding subsection or in any other provision of this Act shall affect the rights of any Government department under Schedule 1 to the Registered Designs Act 1949 or section 55 of the Patents Act 1977, or the rights of the Secretary of State under section 22 of the said Act of 1977.

1949 c. 88.
1977 c. 37.

(3) Save as expressly provided by this section, no proceedings shall lie against the Crown by virtue of this Act in respect of the infringement of a patent, in respect of the infringement of a registered trade mark, or in respect of the infringement of any such copyright as is mentioned in subsection (1) of this section.

[4.—(1) Where the Crown is subject to any liability by virtue of this Part of this Act, the law for the time being in force in Northern Ireland relating to indemnity and contribution shall be enforceable by or against the Crown in respect of the liability to which it is so subject as if the Crown were a private person of full age and capacity.

Application of law as to indemnity, contribution, joint and several tortfeasors, and contributory negligence.

(a) Explained (copyright) 1956 c. 74, s. 39(8).

(b) Subsection (2) substituted 1977 c. 37, s. 132(6), Sch. 5, para. 1 (in force 1/6/1978 S.I. 1978/586 (c. 14)).

1948 c. 23 (N.I.) (2) Without prejudice to the general effect of section 2 of this Act, section 2 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (which amends the law relating to contributory negligence), and so much of sections 4 and 6 of that Act as relates to section 2 thereof, shall bind the Crown, so however that in relation to proceedings against the Crown the references in subsection (1) of the said section 4 to the passing of that Act of 1948 shall be construed as references to 1st January 1950.]

Liability in respect of Crown ships, etc. 5(a).—(1)(b) The provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of ships shall, with any necessary modifications, apply for the purpose of limiting the liability of His Majesty in respect of His Majesty's ships; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.

(2) Without prejudice to the provisions of the preceding subsection, where a ship is built at any port or place within His Majesty's dominions, and His Majesty is interested in her by reason of the fact that she is built by or on behalf of or to the order of His Majesty in right of His Government in the United Kingdom, the provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of ships shall, with any necessary modifications, apply for the purpose of limiting the liabilities in respect of that ship of His Majesty, her builders, her owners, and any other persons interested in her; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.

This subsection shall have effect only in respect of the period from and including the launching of the ship until the time of her completion, and shall not in any event have effect in respect of any period during which His Majesty is not so interested in the ship as aforesaid. In relation to a ship built to the order of His Majesty in right of His Government in the United Kingdom, the time of her completion shall be taken for the purposes of this subsection to be the time when His Majesty, acting in His said right, finally takes delivery of her under the building contract.

(3) Where any ship has been demised or sub-demised by His Majesty acting in right of His Government in the United Kingdom, then, whether or not the ship is registered for the purposes of the Merchant Shipping Acts, 1894 to 1940, the provisions of those Acts which limit the amount of the liability of the owners of ships shall, in respect of the period for which the demise or sub-demise continues, apply, with any necessary modifications, for the purpose of limiting the liabilities in respect of the ship of any person entitled to her by demise or sub-demise; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.

This subsection shall be deemed always to have had effect.

(4) Where by virtue of any arrangement between His Majesty and some other person (not being a servant of His Majesty) that other person (hereinafter referred to as "the manager") is entrusted with the management of any of His Majesty's ships, the provisions of the Merchant Shipping Acts, 1894 to

(a) The following section is prospectively substituted for section 5 by 1979 c. 39, Sch. 5, para. 3 (commencement date not yet appointed)—

5.—(1) The provisions of sections 17 and 18 of the Merchant Shipping Act 1979 and of Schedule 4 to that Act (liability of shipowners and salvors) shall apply in relation to His Majesty's ships as they apply in relation to other ships.

(2) In this section "ships" has the same meaning as in those provisions.

(b) Extended (hovercraft) S.I. 1979/305 Art. 8(1).

1940, which limit the amount of the liability of the owners of ships shall apply for the purpose of limiting the manager's liability in respect of the ship while so entrusted; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.

This subsection shall be deemed always to have had effect.

(5) Where for the purposes of any enactment as applied by this section it is necessary to ascertain the tonnage of any ship, and that ship is not registered for the purposes of the Merchant Shipping Acts, 1894 to 1940, the tonnage of the ship shall be taken for the purposes of that enactment to be the tonnage arrived at by:—

- (a) ascertaining her tonnage in accordance with (a) regulations made under the Merchant Shipping Act 1965, and deducting from her tonnage as so ascertained ten per cent. thereof; or
- (b) where it is impossible to ascertain her tonnage as provided by paragraph (a) of this subsection, taking her estimated tonnage as certified for the purposes of this paragraph, and deducting from her estimated tonnage as so certified ten per cent. thereof.

Where it is necessary to ascertain the tonnage of a ship in the manner provided by paragraph (b) of this subsection, the Chief Ships Surveyor of the Ministry of Transport (b), or the officer for the time being discharging the functions of the said Surveyor, shall, upon the direction of the court concerned, and after considering such evidence of the dimensions of the ship as it may be practicable to obtain, estimate what her tonnage would have been found to be if she could have been duly measured for the purpose, and issue a certificate stating her tonnage as so estimated by him.

(6) For the purposes of this section the expression "ship" has the meaning assigned to it by section seven hundred and forty-two of the Merchant Shipping Act, 1894, but includes also:—

- (a)(c) any structure to which Part VIII of that Act is applied by section 4 of the Merchant Shipping (Liability of Shipowners and Others) Act 1958; and
- (b) every description of lighter, barge or like vessel used in navigation in [Northern Ireland], however propelled, so, however, that a vessel used exclusively in non-tidal waters, other than harbours, shall not for the purposes of this paragraph be deemed to be used in navigation.

(7) Any reference in this section to the provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of ships shall be construed as including a reference to any provision of those Acts which negatives the liability of the owner of a ship, and accordingly any reference in this section to limiting the liability of any person shall be construed as including a reference to negating his liability.

(8) Relief shall not be available by virtue of sections 3 and 4 of the Merchant Shipping (Liability of Shipowners and Others) Act 1958(d) in any case in which it is available by virtue of this section.

6(e). The provisions of sections one, two and three of the Maritime Conventions Act, 1911 (which relate to the apportionment of damage or loss caused by vessels) shall apply in the case of vessels belonging to His Majesty as they apply in the case of other vessels.

Application to Crown ships of rules as to division of loss, etc. 1911 c. 57.

(a) Amended 1965 c. 47, s. 7(1), Sch. 1.

(b) To be construed as a reference to the Department of Trade, S.I. 1953/1204, 1959/1768, 1965/145, 1970/1537, 1974/692, Arts. 2(3), 5(3).

(c) Paragraph (a) substituted 1958 c. 62, s. 8(5).

(d) Reference to 1958 c. 62, ss. 3, 4 substituted by *ibid.*, s. 8(5).

(e) Extended (hovercraft) S.I. 1979/305 Art. 8(2).

Liability in respect of Crown docks, harbours, etc. 7.—(1) It is hereby declared that the provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of docks and canals, and of harbour and conservancy authorities, apply for the purpose of limiting the liability of His Majesty in His capacity as the owner of any dock or canal, or in His capacity as a harbour or conservancy authority, and that all the relevant provisions of the said Acts have effect in relation to His Majesty accordingly.

1900 c. 32. (2) In this section the expressions “dock”, “harbour”, “owner”, “harbour authority” and “conservancy authority” have respectively the same meanings as they have for the purposes of section two of the Merchant Shipping (Liability of Shipowners and Others) Act, 1900.

(3) In this section references to His Majesty include references to any Government department and to any officer of the Crown in his capacity as such.

Salvage claims against the Crown and Crown rights to salvage. 1894 c. 60. 8.—(1) Subject to the provisions of this Act, the law relating to civil salvage, whether of life or property, except sections five hundred and fifty-one to five hundred and fifty-four of the Merchant Shipping Act, 1894, or any corresponding provisions relating to aircraft, shall apply in relation to salvage services rendered after [1st January 1950] in assisting any of His Majesty’s ships or aircraft, or in saving life therefrom, or in saving any cargo or apparel belonging to His Majesty in right of His Government in the United Kingdom, in the same manner as if the ship, aircraft, cargo or apparel belonged to a private person.

(2) Where after [1st January 1950] salvage services are rendered by or on behalf of His Majesty, whether in right of His Government in the United Kingdom or otherwise, His Majesty shall be entitled to claim salvage in respect of those services to the same extent as any other salvor, and shall have the same rights and remedies in respect of those services as any other salvor.

Liability in connection with postal packets. 9. . . .(a)

Provisions relating to the armed forces. 10(b).—(1) Nothing done or omitted to be done by a member of the armed forces of the Crown while on duty as such shall subject either him or the Crown to liability in tort for causing the death of another person, or for causing personal injury to another person, in so far as the death or personal injury is due to anything suffered by that other person while he is a member of the armed forces of the Crown if—

(a) at the time when that thing is suffered by that other person, he is either on duty as a member of the armed forces of the Crown or is, though not on duty as such, on any land, premises, ship, aircraft or vehicle for the time being used for the purposes of the armed forces of the Crown; and

(b) the Minister of Pensions(c) certifies that his suffering that thing has been or will be treated as attributable to service for the purposes of entitlement to an award under the Royal Warrant, Order in Council or Order of His Majesty relating to the disablement or death of members of the force of which he is a member:

(a) Section 9 repealed 1969 c. 48, s. 141, Sch. 11, Pt. II.

(b) Modified in relation to civil defence 1954 c. 66; references to ships, etc., include hovercraft S.I. 1972/971 Art. 4, Sch. 1.

(c) To be construed as a reference to the Secretary of State for Social Services, S.I. 1953/1198, 1966 c. 20, s. 2, 1968/1699 Arts. 2, 5 (4).

Provided that this subsection shall not exempt a member of the said forces from liability in tort in any case in which the court is satisfied that the act of omission was not connected with the execution of his duties as a member or those forces.

(2) No proceedings in tort shall lie against the Crown for death or personal injury due to anything suffered by a member of the armed forces of the Crown if—

- (a) that thing is suffered by him in consequence of the nature or condition of any such land, premises, ship, aircraft or vehicle as aforesaid, or in consequence of the nature or condition of any equipment or supplies used for the purposes of those forces; and
- (b) the Minister of Pensions^(a) certifies as mentioned in the preceding subsection;

nor shall any act or omission of an officer of the Crown subject him to liability in tort for death or personal injury, in so far as the death or personal injury is due to anything suffered by a member of the armed forces of the Crown being a thing as to which the conditions aforesaid are satisfied.

(3) . . . (b) a Secretary of State, if satisfied that it is the fact:—

- (a) that a person was or was not on any particular occasion on duty as a member of the armed forces of the Crown; or
- (b) that at any particular time any land, premises, ship, aircraft, vehicle, equipment or supplies was or was not, or were or were not, used for the purposes of the said forces;

may issue a certificate certifying that to be the fact; and any such certificate shall, for the purposes of this section, be conclusive as to the fact which it certifies.

11.—(1) Nothing in Part I of this Act shall extinguish or abridge any powers or authorities which, if this Act had not been passed, would have been exercisable by virtue of the prerogative of the Crown, or any powers or authorities conferred on the Crown by any statute, and, in particular, nothing in the said Part I shall extinguish or abridge any powers or authorities exercisable by the Crown, whether in time of peace or of war, for the purpose of the defence of the realm or of training, or maintaining the efficiency of, any of the armed forces of the Crown.

Saving in respect of acts done under prerogative and statutory powers.

(2) Where in any proceedings under this Act it is material to determine whether anything was properly done or omitted to be done in the exercise of the prerogative of the Crown, . . . (c) a Secretary of State may, if satisfied that the act or omission was necessary for any such purpose as is mentioned in the last preceding subsection, issue a certificate to the effect that the act or omission was necessary for that purpose; and the certificate shall, in those proceedings, be conclusive as to the matter so certified.

[S. 12 is excepted]

- (a) See footnote (c) on page 15.
- (b) Words repealed S.I. 1964/488.
- (c) Words repealed S.I. 1964/488.

PART II(a)

JURISDICTION AND PROCEDURE

The High Court

Civil proceedings in the High Court. **13.** Subject to the provisions of this Act, all such civil proceedings by or against the Crown as are mentioned in the First Schedule to this Act are hereby abolished, and all civil proceedings by or against the Crown in the High Court shall be instituted and proceeded with in accordance with rules of court and not otherwise.

[The remainder of s. 13 is excepted]

Summary applications to High Court in certain revenue matters. 1975 c. 7. 1891 c. 38. **14.—(1)** Subject to and in accordance with rules of court, the Crown may apply in a summary manner to the High Court:—

- (a) for the furnishing of information required to be furnished by any person under the enactments relating to (b) capital transfer tax;
- (b) for the delivery of accounts and (c) payment of capital transfer tax under Part III of the Finance Act 1975;
- (c) for the delivery of an account under section two of the Stamp Duties Management Act, 1891, or under that section as amended or applied by any subsequent enactment;
- (d) for the payment of sums improperly withheld or retained within the meaning of the said section two.

(2) Subject to and in accordance with rules of court, the Crown may apply in a summary manner to the High Court:—

- (a) for the payment of duty under the enactments relating to excise duties;
- (b) for the delivery of any accounts required to be delivered, or the furnishing of any information required to be furnished, by the enactments relating to excise duties or by any regulations relating to such duties;
- (c) for the payment of tax under the enactments relating to (d) value added tax;
- (d) for the delivery of any accounts, the production of any books, or the furnishing of any information, required to be delivered, produced or furnished under the enactments relating to (d) value added tax.

1973 c. 36. **[(3)** References in subsection (2) above to excise duties do not include any tax (being a tax to which paragraph 8 of Schedule 2 to the Northern Ireland Constitution Act 1973 does not apply) levied under any enactment such as is mentioned in section 38(7) of this Act.]

County Courts

Civil proceedings in the county court. **15.—(1)** Subject to the provisions of this Act, and to any enactment limiting the jurisdiction of a county court (whether by reference to the subject matter of the proceedings to be brought or the amount sought to be recovered in the proceedings or otherwise) any civil proceedings [by or] against the Crown may be instituted in a county court.

(a) Extended (penalties) 1970 c. 9, s. 100(3), 1975 c. 7, Sch. 4, para. 32(2); applied (sex discrimination) S.I. 1976/1042 (N.I. 15) Art. 82(9) and (fair employment) 1976 c. 25, s. 51.

(b) Amended 1975 c. 7, Sch. 12, para. 8(a).

(c) Amended *ibid.* para. 8(b).

(d) Amended 1972 c. 41, s. 55(1).

(2) Any proceedings by or against the Crown in a county court shall be instituted and proceeded with in accordance with county court rules and not otherwise.

General

[16. The Crown may obtain relief by way of interpleader proceedings, and Interpleader. may be made a party to such proceedings, in the same manner in which a subject may obtain relief by way of such proceedings or be made a party thereto; and the provisions of Article 44 of the Judgments Enforcement (Northern Ireland) Order 1981 relating to interpleader proceedings shall, subject to S.I. 1981/226 the provisions of this Act, have effect accordingly.] (N.I. 6).

17.—[(1) The Department of the Civil Service for Northern Ireland shall Parties to publish a list specifying the several departments of the Government of the proceedings. United Kingdom which are authorised departments for the purposes of this Act in Northern Ireland, and the name and address for service of the person who is, or is acting for the purposes of this Act as, the solicitor in Northern Ireland for each such department, and may from time to time amend or vary the said list. The said list may in relation to any such department specify different solicitors for different types of proceedings.]

Any document purporting to be a copy of a list published under this section and purporting to be printed under the superintendence or the authority of His Majesty's Stationery Office shall in any legal proceedings be received as evidence for the purpose of establishing what departments are authorised departments for the purposes of this Act, and what person is, or is acting for the purposes of this Act as, the solicitor in Northern Ireland for any such department.]

(2) Civil proceedings by the Crown may be instituted either by an authorised Government department in its own name, whether that department was or was not at [1st January 1950] authorised to sue, or by the Attorney General.

(3) Civil proceedings against the Crown shall be instituted against the appropriate authorised Government department, or, if none of the authorised Government departments is appropriate or the person instituting the proceedings has any reasonable doubt whether any and if so which of those departments is appropriate, against the Attorney General.

[(3A) Civil proceedings against the Crown may be instituted in Northern Ireland against the Attorney General if the alleged liability arises out of the performance of any function pursuant to an agency arrangement or the person instituting the proceedings has any reasonable doubt whether the alleged liability of the Crown arises in respect of His Majesty's Government in the United Kingdom or in respect of His Majesty's Government in Northern Ireland.]

(4) Where any civil proceedings against the Crown are instituted against the Attorney General, an application may at any stage of the proceedings be made to the court by or on behalf of the Attorney General to have such of the authorised Government departments as may be specified in the application substituted for him as defendant to the proceedings; and where any such proceedings are brought against an authorised Government department, an application may at any stage of the proceedings be made to the court on behalf of that department to have the Attorney General or such of the authorised Government departments as may be specified in the application substituted for the applicant as the defendant to the proceedings.

Upon any such application the court may if it thinks fit make an order granting the application on such terms as the court thinks just; and on such an order being made the proceedings shall continue as if they had been commenced against the department specified in that behalf in the order, or, as the case may require, against the Attorney General.

(5) No proceedings instituted in accordance with this Part of this Act by or against the Attorney General or an authorised Government department shall abate or be affected by any change in the person holding the office of Attorney General or in the person or body of persons constituting the department.

Service of documents. 18. All documents required to be served on the Crown for the purpose of or in connection with any civil proceedings by or against the Crown shall, if those proceedings are by or against an authorised Government department, be served on the solicitor, if any, for that department, or the person, if any, acting for the purposes of this Act as solicitor for that department, or if there is no such solicitor and no person so acting, or if the proceedings are brought by or against the Attorney General, on [the Crown Solicitor for Northern Ireland].

Venue and related matters. 19.—[Subsection (1) is excepted]
(2) The trial of any civil proceedings by or against the Crown in the High Court shall be held at the Royal Courts of Justice unless the court, with the consent of the Crown, otherwise directs.

Where the Crown refuses its consent to a direction under this subsection the court may take account of the refusal in exercising its powers in regard to the award of costs.

(3) Nothing in this section shall prejudice the right of the Crown to demand a local venue for the trial of any proceedings in which the Attorney General has waived his right to a trial at bar.

Removal and transfer of proceedings 20(a).—(1) If in a case where proceedings are instituted against the Crown in a county court an application in that behalf is made by the Crown to the High Court, and there is produced to the court a certificate of the Attorney General to the effect that the proceedings may involve an important question of law, or may be decisive of other cases arising out of the same matter, or are for other reasons more fit to be tried in the High Court, the proceedings shall be removed into the High Court.

Where any proceedings have been removed into the High Court on the production of such a certificate as aforesaid, and it appears to the court by whom the proceedings are tried that the removal has occasioned additional expense to the person by whom the proceedings are brought, the court may take account of the additional expense so occasioned in exercising its powers in regard to the award of costs.

(2) Without prejudice to the rights of the Crown under the preceding provisions of this section, all rules of law and enactments relating to the removal [words excepted] of proceedings from a county court to the High Court, or the [remittal] of proceedings from the High Court to a county court, shall apply in relation to proceedings against the Crown:

Provided that—

1978 c. 23. (a) [in accordance with section 31 (8)(c) of the Judicature (Northern Ireland) Act 1978,] an order for the [remittal] to a county court of any proceedings against the Crown in the High Court shall not be made without the consent of the Crown; and

(a) Excluded (sex discrimination) S.I. 1976/1042 (N.I. 15) Art. 82(9) and (fair employment) 1976 c. 25, s. 51.

- [(b) in accordance with section 31(8)(c) of that Act, no enactment or rule of court shall have effect so as to require security to be given by the Crown, or so as to authorise the making of an order requiring security to be given by the Crown, in respect of any proceedings removed or transferred from a county court to the High Court; and
- (c) the provisions of any enactment or rule of court relating to costs in actions brought in the High Court which could have been brought in an inferior court shall not apply to any proceedings by the Crown.]

21.—(1) In any civil proceedings by or against the Crown the court shall, subject to the provisions of this Act, have power to make all such orders as it has power to make in proceedings between subjects, and otherwise to give such appropriate relief as the case may require: Nature of relief.

Provided that:—

- (a) where in any proceedings against the Crown any such relief is sought as might in proceedings between subjects be granted by way of injunction or specific performance, the court shall not grant an injunction or make an order for specific performance, but may in lieu thereof make an order declaratory of the rights of the parties; and
- (b) in any proceedings against the Crown for the recovery of land or other property the court shall not make an order for the recovery of the land or the delivery of the property, but may in lieu thereof make an order declaring that the plaintiff is entitled as against the Crown to the land or property or to the possession thereof.

(2) The court shall not in any civil proceedings grant any injunction or make any order against an officer of the Crown if the effect of granting the injunction or making the order would be to give any relief against the Crown which could not have been obtained in proceedings against the Crown.

[21A. In any civil proceedings or proceedings in any arbitration to which the Crown is a party, the costs of and incidental to the proceedings shall be awarded in the same manner and on the same principles as in cases between subjects, and the court or arbitrator shall have power to make an order for the payment of costs by or to the Crown accordingly:

Costs in civil proceedings to which the Crown is a party.

Provided that—

- (a) in the case of proceedings to which by reason of any enactment or otherwise the Attorney General, a Government department or any officer of the Crown as such is authorised to be made a party, the court or arbitrator shall have regard to the nature of the proceedings and the character and circumstances in which the Attorney General, department or officer appears, and may in the exercise of its or his discretion order any other party to the proceedings to pay the costs of the Attorney General, department or officer, whatever may be the result of the proceedings; and
- (b) nothing in this section shall affect the power of the court or arbitrator to order, or any enactment providing for, the payment of costs out of any particular fund or property, or any enactment expressly relieving any department or officer of the Crown of the liability to pay costs.]

22. Subject to the provisions of this Act, all enactments, rules of court and county court rules relating to appeals and stay of execution [and all enactments and Judgment Enforcement Rules relating to stay of enforcement of judgments] shall, with any necessary modifications, apply to civil proceedings by or against the Crown as they apply to proceedings between subjects.

Appeals and stay of execution.

Scope of Part II. 23.—(1) Subject to the provisions of this section, any reference in this Part of this Act to civil proceedings by the Crown shall be construed as a reference to the following proceedings only:—

- (a) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by any such proceedings as are mentioned in paragraph 1 of the First Schedule to this Act;
- (b) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by an action at the suit of any Government department or any officer of the Crown as such;
- (c) all such proceedings as the Crown is entitled to bring by virtue of this Act;

and the expression “civil proceedings by or against the Crown” shall be construed accordingly.

(2) Subject to the provisions of this section, any reference in this Part of this Act to civil proceedings against the Crown shall be construed as a reference to the following proceedings only:—

- (a) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by any such proceedings as are mentioned in paragraph 2 of the First Schedule to this Act;
- (b) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by an action against the Attorney General, any Government department, or any officer of the Crown as such; and
- (c) all such proceedings as any person is entitled to bring against the Crown by virtue of this Act;

and the expression “civil proceedings by or against the Crown” shall be construed accordingly.

[(3) Notwithstanding anything in the preceding provisions of this section, the provisions of this Part of this Act shall not have effect with respect to any of the following proceedings brought by or against the Crown in right of His Majesty’s Government in the United Kingdom, that is to say:—

- (a) proceedings brought by the Attorney General on the relation of some other person;
- (b) proceedings by or against the Public Trustee;
- (c) proceedings by or against the Land Purchase Trustee for Northern Ireland.]

(4) Subject to the provisions of any Order in Council made under the provisions hereinafter contained, this Part of this Act shall not affect proceedings initiated in any court other than the High Court or a county court.

PART III(a)

JUDGMENTS AND EXECUTION

24.—[(1) Article 127 of the Judgments Enforcement (Northern Ireland) Order 1981 (which provides that a money judgment shall, subject to certain exceptions and to any contrary provision in the judgment, carry interest) shall apply to money judgments given against or in favour of the Crown.]

Interest on debts, damages and costs.

[Subsection (2) is excepted]

S.I. 1981/226 (N.I. 6).

(3) [Section 17 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland), 1937] (which empowers courts of record to award interest on debts and damages) shall apply to judgments given in proceedings by and against the Crown.

1937 c. 9 (N.I.).

(4) This section shall apply both in relation to proceedings pending at [1st January 1950] and in relation to proceedings instituted thereafter.

25.—(1) Where in any civil proceedings by or against the Crown, or [on any application for judicial review pursuant to section 18 of the Judicature (Northern Ireland) Act 1978], or in connection with any arbitration to which the Crown is a party, any order (including an order for costs) is made by any court in favour of any person against the Crown or against a Government department or against an officer of the Crown as such, the proper officer of the court shall, on an application in that behalf made by or on behalf of that person at any time after the expiration of twenty-one days from the date of the order or, in case the order provides for the payment of costs and the costs require to be taxed, at any time after the costs have been taxed, whichever is the later, issue to that person a certificate in the prescribed form containing particulars of the order:

Satisfaction of orders against the Crown. 1978 c. 23.

Provided that, if the court so directs, a separate certificate shall be issued with respect to the costs (if any) ordered to be paid to the applicant.

(2) A copy of any certificate issued under this section may be served by the person in whose favour the order is made upon the person for the time being named in the record as the solicitor, or as the person acting as solicitor, for the Crown or for the Government department or officer concerned.

(3) If the order provides for the payment of any money by way of damages or otherwise, or of any costs, the certificate shall state the amount so payable, and the appropriate Government department shall, subject as hereinafter provided, pay to the person entitled or to his solicitor the amount appearing by the certificate to be due to him together with the interest, if any, lawfully due thereon:

Provided that the court by which any such order as aforesaid is made or any court to which an appeal against the order lies may direct that, pending an appeal or otherwise, payment of the whole of any amount so payable, or any part thereof, shall be suspended, and if the certificate has not been issued may order any such directions to be inserted therein.

(4) Save as aforesaid [no order or process in the nature of execution shall be made by or issued out of any court, and no enforcement order shall be made by the Enforcement of Judgments Office,] for enforcing payment by the Crown of any such money or costs as aforesaid, and no person shall be individually liable under any order for the payment by the Crown, or any Government department, or any officer of the Crown as such, of any such money or costs.

(5) This section shall apply both in relation to proceedings pending at [1st January 1950] and in relation to proceedings instituted thereafter.

(a) Applied (sex discrimination) S.I. 1976/1042 (N.I. 15) Art. 82(9) and (fair employment) 1976 c. 25, s. 51.

- Execution by the Crown. **26.—(1)** Subject to the provisions of this Act, any order made in favour of the Crown against any person in any civil proceedings to which the Crown is a party may be enforced in the same manner as an order made in an action between subjects, and not otherwise.
- This subsection shall apply both in relation to proceedings pending at [1st January 1950] and in relation to proceedings instituted thereafter.
- S.I. 1981/226 (N.I. 6). **[(2)** Without prejudice to the generality of subsection (1) above, the Judgments Enforcement (Northern Ireland) Order 1981, Judgment Enforcement Rules and rules of court shall, save as otherwise provided by any statutory provision within the meaning of that Order, apply to judgments given in favour of the Crown.
- (2A)** Articles 106 and 107 of that Order of 1981 (which relate respectively to limitation on arrest and imprisonment of debtors and to committal for default) shall apply to sums of money payable and debts due to the Crown.
- (2B)** Articles 115 and 125 of that Order of 1981 (which relate respectively to committal for contempt in certain cases of default and to the effect of imprisonment under Article 107 or 115) shall—
- (a) have effect in relation to sums of money payable and debts due to the Crown; and
 - (b) have effect as if those provisions in terms applied to default in payment of any sum payable in respect of estate duty.
- (3)** Nothing in this section shall affect any procedure which immediately before [1st January 1950] was available for enforcing an order made in favour of the Crown in proceedings brought by the Crown for the recovery of any fine or penalty, or the forfeiture or condemnation of any goods, or the forfeiture of any ship or any share in a ship.
- Attachment of moneys payable by the Crown. **27.—[(1)** Except as provided in subsection (4), this section applies where any money is payable by the Crown to some person (“the debtor”) who, under an order of a court, is liable to pay any money to another person (“the creditor”).
- S.I. 1978/1045 (N.I. 15). **(2)** Where the creditor would, if the money so payable by the Crown were money payable by a subject, be entitled under the Judgments Enforcement (Northern Ireland) Order 1981 to obtain from the Enforcement of Judgments Office, or under matrimonial causes rules made under Article 54 of the Matrimonial Causes (Northern Ireland) Order 1978 to obtain from the High Court or a divorce county court, an order for the attachment of the money as a debt due or accruing due, or an order for the appointment of a receiver to receive the money on his behalf, the Enforcement of Judgments Office, or, as the case may be, the High Court or the divorce county court, may, subject to the provisions of this Act—
- (a) make an order restraining the debtor from receiving the money payable by the Crown and directing its payment to the creditor (and such payment shall be a valid discharge to the Crown); or
 - (b) make an order appointing a receiver in accordance with the Judgments Enforcement (Northern Ireland) Order 1981 or, as the case may be, matrimonial causes rules.
- (3)** Where the debtor is a company and a sequestration order is made against it by a court under Article 113 of that Order of 1981, the court may also make an order restraining the debtor from receiving the money payable by the Crown and directing its payment to the sequestrator (and such payment shall be a valid discharge to the Crown).
- (4)** An order shall not be made under subsection (2) or (3) in respect of—
- (a) any wages or salary payable to any officer of the Crown as such;
 - (b) any money which is subject to the provisions of any enactment prohibiting or restricting assignment or charging or taking in execution or in the enforcement of a judgment; or

- (c) any money payable by the Crown to any person on account of a deposit in the National Savings Bank.

(5) This section does not prejudice section 75 of the Judgments (Enforcement) Act (Northern Ireland) 1969(a) or Article 75 or Article 101 of the Judgments Enforcement (Northern Ireland) Order 1981 (attachment of earnings of persons employed under the Crown).]

1969 c. 30
(N.I.).
S.I. 1981/226
(N.I. 6).

PART IV(b)

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

28(c).—(1) Subject to and in accordance with rules of court and county court rules:— Discovery.

- (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(d).—(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 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.

Exclusion of
proceedings
in rem
against
the Crown.

(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.

(a) Section 75 was substituted by S.I. 1979/296 (N.I. 3) Art. 17(1), Sch. 1, Pt. I.

(b) Applied (sex discrimination) S.I. 1976/1042 (N.I. 15) Art. 82(9) and (fair employment) 1976 c. 25, s. 51.

(c) Modified (fair employment) 1976 c. 25, s. 51.

(d) References in s. 29 to ships, etc., include hovercraft S.I. 1972/971 Art. 4, Sch. 1.

Limitation of actions. 1911 c. 57. **30(a).**—(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 . . . **(b)** 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) . . . **(b)**

(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.

Application to the Crown of certain statutory provisions. **31.**—(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) [*Subsection (2) is excepted*]

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

Abolition of certain writs. **33.** No writ of extent or of diem clausit extremum shall issue after [1st January 1950].

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

Supplemental

Rules of court and county court rules. **35.**—(1) Any power to make rules of court or county court rules shall include power to make rules for the purpose of giving effect to the provisions of this Act, and any such rules may contain provisions to have effect in relation to any proceedings by or against the Crown in substitution for or by way of addition to any of the provisions of the rules applying to proceedings between subjects.

(2) Provision shall be made by rules of court and county court rules with respect to the following matters:—

(a) for providing for service of process, or notice thereof, in the case of proceedings by the Crown against persons, whether British subjects or not, who are not resident in the United Kingdom [or, in the case of county court rules, are not resident in Northern Ireland];

(a) Extended (hovercraft) S.I. 1979/305 Art. 8(2).

(b) Words in subs. (1), and subs. (2), repealed 1954 c. 36, ss. 5(2), 8(2), Sch.

(c) Section 34 repealed 1953 c. 5, 1977 c. 38, s. 32(4), Sch. 5, Pt. V.

- (b) for securing that where any civil proceedings are brought against the Crown in accordance with the provisions of this Act the plaintiff shall, before the Crown is required to take any step in the proceedings, provide the Crown with such information as the Crown may reasonably require as to the circumstances in which it is alleged that the liability of the Crown has arisen and as to the departments and officers of the Crown concerned;
- (c) for providing that in the case of proceedings against the Crown the plaintiff shall not enter judgment against the Crown in default of appearance or pleading without the leave of the court to be obtained on an application of which notice has been given to the Crown;
- (d) for excepting proceedings brought against the Crown from the operation of any rule of court providing for summary judgment without trial, [or of any county court rule providing for process by default];
- (e) for authorising the Crown to deliver interrogatories without the leave of a court in any proceedings for the enforcement of any right for the enforcement of which proceedings by way of English information might have been taken if this Act had not been passed, so, however, that the Crown shall not be entitled to deliver any third or subsequent interrogatories without the leave of the court;
- (f) for enabling evidence to be taken on commission in proceedings by or against the Crown;
- (g) for providing:—
 - (i)(a) that a person shall not be entitled to avail himself of any set-off or counterclaim in any proceedings by the Crown for the recovery of taxes, duties or penalties, or to avail himself in proceedings of any other nature by the Crown of any set-off or counterclaim arising out of a right or claim to repayment in respect of any taxes, duties or penalties;
 - (ii) that a person shall not be entitled without the leave of the court to avail himself of any set-off or counterclaim in any proceedings by the Crown if either the subject matter of the set-off or counterclaim does not relate to the Government department in the name of which the proceedings are brought or the proceedings are brought in the name of the Attorney General;
 - (iii) that the Crown, when sued in the name of a Government department, shall not, without the leave of the court, be entitled to avail itself of any set-off or counterclaim if the subject matter thereof does not relate to that department; and
 - (iv) that the Crown, when sued in the name of the Attorney General, shall not be entitled to avail itself of any set-off or counterclaim without the leave of the court.

(3) Provision may be made by rules of court for regulating any appeals to the High Court, whether by way of case stated or otherwise, under enactments relating to the revenue, and any rules made under this subsection may revoke any enactments or rules in force immediately before [1st January 1950] so far as they regulate any such appeals, and may make provision for any matters for which provision was made by any enactments or rules so in force.

(a) References to taxes include interest charged under 1970 c. 9, Pt. IX—*ibid.* s. 69(b).

Pending proceedings. 36. Save as otherwise expressly provided, the provisions of this Act shall not affect proceedings by or against the Crown which have been instituted before [1st January 1950]; and for the purposes of this section proceedings against the Crown by petition of right shall be deemed to have been so instituted if a petition of right with respect to the matter in question has been left with a Secretary of State for submission to His Majesty before [1st January 1950].

Financial provisions. 37.—(1) Any expenditure incurred by or on behalf of the Crown in right of His Majesty's Government in the United Kingdom by reason of the passing of this Act shall be defrayed out of moneys provided by Parliament.

(2) Any sums payable to the Crown in right of His Majesty's Government in the United Kingdom by reason of the passing of this Act shall be paid into the Exchequer.

(3) Any order made under section 25 of this Act, or otherwise as the result of the passing of this Act, in any proceedings brought against the Attorney General in accordance with section 17(3A) of this Act shall be satisfied by the Department of Finance out of money either appropriated or advanced to the Department by the Treasury for the purpose, so however that any sum expended by the Department in such satisfaction shall be defrayed out of the Consolidated Fund and the Consolidated Fund of Northern Ireland in such proportions as may be agreed in that behalf between the Treasury and the Department.]

Interpretation. 38.—(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 or county court rules 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:—

1973 c. 36. ["Agency arrangement" means an arrangement such as is mentioned in section 11 of the Northern Ireland Constitution Act 1973;]

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

["Attorney General" means the Attorney General for Northern Ireland;]

1978 c.23. "Civil proceedings" includes proceedings in the High Court or the county court for the recovery of fines or penalties, but does not include [an application for judicial review pursuant to section 18 of the Judicature (Northern Ireland) Act 1978];

["County court" means a county court in Northern Ireland;

1954 c.33 (N.I.). "County court rules" has the same meaning as in section 21(5) of the Interpretation Act (Northern Ireland) 1954;

"Department of Finance" means the Department of Finance for Northern Ireland;

"High Court" (except in a reference to that court as a prize court) means the High Court of Justice in Northern Ireland;]

"His Majesty's aircraft"(a) does not include aircraft belonging to His Majesty otherwise than in right of His Government in the United Kingdom;

(a) Applied (restriction of proceedings, etc.) 1956 c. 46, Sch. 1, Pt. I, para. 7(2).

“His Majesty’s ships”(a) means ships of which the beneficial interest is vested in His Majesty or which are registered as Government ships for the purposes of the Merchant Shipping Acts, 1894 to 1940, 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 unless that ship is for the time being demised or subdemised to His Majesty in right of His said Government or in the exclusive possession of His Majesty in that right;

“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;

“Order” includes a judgment, decree, rule, award or declaration [or a dismissal by a county court];

“Prescribed” means prescribed by rules of court or county court rules, as the case may be;

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

[“Royal Courts of Justice” means those courts at Belfast;

“Rules of court” has the same meaning as in section 21(4) of the Interpretation Act (Northern Ireland) 1954;]

1954 c. 33.
(N.I.).

“Ship” has the meaning assigned to it by section seven hundred and forty-two of the Merchant Shipping Act, 1894;

1894 c. 60.

“Statutory duty” means any duty imposed by or under any [enactment].

(3)(b) 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) Any reference in this Act to the armed forces of the Crown shall be construed as including a reference to the following forces:—

- (a) the Women’s Royal Naval Service;
- (b) the Queen Alexandra’s Royal Naval Nursing Service; and
- (c) any other organisation established under the control of the Admiralty, the Army Council or the Air Council.

(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.

(a) See footnote (a) on previous page.

(b) Applied (offshore mineral workings) 1971 c. 61, s. 11(6).

1972 c. 22. [(7) Any reference (however expressed) in this Act to an enactment or an
1974 c. 28. Act includes an enactment of the Irish Parliament, the Parliament of Northern
Ireland or the Northern Ireland Assembly or an enactment contained in an
Order in Council made under section 1(3) of the Northern Ireland (Temporary
Provisions) Act 1972 or paragraph 1 of Schedule 1 to the Northern Ireland
Act 1974.]

Repeals, &c. 39. . . (a).

Savings. 40.—(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, 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; 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
- (e) . . . (b)
- (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
- (h) affect any liability imposed on the public trustee or on the Consolidated
Fund of the United Kingdom by the Public Trustee Act, 1906;

1906 c. 55.

and, without prejudice to the general effect of the foregoing provisions, [but
subject to the provisions of section 17(3A) and section 37(3) of this Act], Part III
of this Act shall not apply to the Crown except in right of His Majesty's
Government in the United Kingdom.

(3) A certificate of a Secretary of State:—

- (a) to the effect that any alleged liability of the Crown arises [neither in
respect of His Majesty's Government in the United Kingdom nor
in respect of His Majesty's Government in Northern Ireland];
- (b) to the effect that any proceedings by the Crown are proceedings
[neither in right of His Majesty's Government in the United Kingdom
nor in right of His Majesty's Government in Northern Ireland];

shall, for the purposes of this Act, be conclusive as to the matter so certified.

(a) Section 39 repealed 1950 (14 Geo. 6) c. 6, S.I. 1970/1681.

(b) Paragraph (e) repealed 1961 c. 63, s. 1(6)(a).

(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 [1st January 1950], notwithstanding that by reason of the provisions of this Act some other and further remedy is available.

[Part V (application to Scotland) is excepted]

PART VI

EXTENT, COMMENCEMENT, SHORT TITLE, &C.

[S. 52 is excepted]

53.—(1) His Majesty may by Order in Council provide for extending this Act to Northern Ireland with such additions, exceptions and modifications as appear to His Majesty to be expedient. Provisions
as to
Northern
Ireland.

(2) An Order in Council under this section may provide for amending the law both in its application to the Crown in right of His Majesty's Government in the United Kingdom and in its application to the Crown in right of His Majesty's Government in Northern Ireland.

(3) An Order in Council under this section may provide for amending the law:—

- (a) with respect to the right of the Crown to sue in a county court in Northern Ireland; and
- (b) with respect to the award of costs to or against the Crown in Northern Ireland.

(4) An Order in Council under this section may be varied or revoked by a further Order in Council made thereunder.

(5) An Order in Council under this section may include such provisions as appear to His Majesty to be incidental to or consequential on any provisions contained in such an Order by virtue of the preceding provisions of this section.

(6) . . . (a)

(7) 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 . . . (b).

54.—(1) This Act may be cited as the Crown Proceedings Act, 1947.

Short title.

(2) . . . (c)

-
- (a) Subsection (6) repealed 1973 c. 36, s. 41, Sch. 6, Pt. I.
 - (b) Remainder of subsection (7) repealed 1953 c. 5.
 - (c) Subsection (2) repealed 1950 (14 Geo. 6) c. 6.

SCHEDULES
FIRST SCHEDULE

Section 23.

PROCEEDINGS ABOLISHED BY THIS ACT

- 1.—(1) Latin informations and English informations.
 (2) Writs of *capias ad respondendum*, writs of *subpoena ad respondendum*, and writs of appraisalment.
 (3) Writs of *scire facias*.
 (4) Proceedings for the determination of any issue upon a writ of extent or of *diem clausit extremum*.
- 1865 c. 104. (5) Writs of summons under Part V of the Crown Suits Act, 1865.
- 2.—(1) Proceedings against His Majesty by way of petition of right, including proceedings by way of petition of right intituled in the Admiralty Division under section fifty-two of the Naval Prize Act, 1864.
 1864 c. 25. (2) Proceedings against His Majesty by way of *monstrans de droit*.

SECOND SCHEDULE

.. .(a).

SCHEDULE 3

Article 1(4)(b).

THE CROWN PROCEEDINGS ACT 1947 (C. 44) AS EXTENDED TO NORTHERN IRELAND
AND APPLIED TO THE CROWN IN RIGHT OF HER MAJESTY'S GOVERNMENT IN
NORTHERN IRELAND

Note: This text is provided for convenience of reference. Additions and modifications made by the Order are printed in square brackets; exceptions made by the Order are indicated by italics in square brackets; and provisions of the Act repealed before the making of the Order are indicated by dots.

AN ACT to amend the law relating to the civil liabilities and rights of the [Crown in right of His Majesty's Government in Northern Ireland], and to civil proceedings by and against the [Crown in right of His Majesty's Government in Northern Ireland], to amend the law relating to the civil liabilities of persons other than the [Crown in right of His Majesty's Government in Northern Ireland] in certain cases involving the affairs or property of the [Crown in right of His Majesty's Government in Northern Ireland] and for purposes connected with the matters aforesaid.

[31st July 1947.]

(a) Repealed 1950 (14 Geo. 6) c. 6.

PART I(a)

SUBSTANTIVE LAW

1. Where any person has a claim against the [Crown in right of His Majesty's Government in Northern Ireland] after [1st January 1950 (the date of the coming into operation of the Northern Ireland Crown Proceedings Order 1949)], and, if this Act had not been passed, the claim might have been enforced, subject to the grant of His(b) Majesty's fiat, by petition of right, or might have been enforced by a proceeding provided by any statutory provision repealed by this Act, then, subject to the provisions of this Act, the claim may be enforced as of right, and without the fiat of His Majesty, by proceedings taken against the [Crown in right of His Majesty's Government in Northern Ireland] for that purpose in accordance with the provisions of this Act.

Right to sue the Crown in right of His Majesty's Government in Northern Ireland. S.I. 1949/1836.

2(c).—(1) Subject to the provisions of this Act, the [Crown in right of His Majesty's Government in Northern Ireland] shall be subject to all those liabilities in tort to which, if it were a private person of full age and capacity, it would be subject:—

Liability of the Crown in right of His Majesty's Government in Northern Ireland in tort.

- (a) in respect of torts committed by its servants or agents;
- (b) in respect of any breach of those duties which a person owes to his servants or agents at common law by reason of being their employer; and
- (c) in respect of any breach of the duties attaching at common law to the ownership, occupation, possession or control of property:

Provided that no proceedings shall lie against the [Crown in right of His Majesty's Government in Northern Ireland] by virtue of paragraph (a) of this subsection in respect of any act or omission of a servant or agent of [His Majesty's Government in Northern Ireland] unless the act or omission would apart from the provisions of this Act have given rise to a cause of action in tort against that servant or agent or his estate.

(2) Where the [Crown in right of His Majesty's Government in Northern Ireland] is bound by a statutory duty which is binding also upon persons other than the [Crown in right of His Majesty's Government in Northern Ireland] and its officers, then, subject to the provisions of this Act, the [Crown in right of His Majesty's Government in Northern Ireland] shall, in respect of a failure to comply with that duty, be subject to all those liabilities in tort (if any) to which it would be so subject if it were a private person of full age and capacity.

(3) Where any functions are conferred or imposed upon an officer of [His Majesty's Government in Northern Ireland] as such either by any rule of the common law or by statute, and that officer commits a tort while performing or purporting to perform those functions, the liabilities of the [Crown in right of His Majesty's Government in Northern Ireland] in respect of the tort shall be such as they would have been if those functions had been conferred or imposed solely by virtue of instructions lawfully given by the [Crown in right of His Majesty's Government in Northern Ireland].

(4) Any enactment which negatives or limits the amount of the liability of any [Northern Ireland] department or officer of [His Majesty's Government in Northern Ireland] in respect of any tort committed by that department or officer shall, in the case of proceedings against the [Crown in right of His Majesty's Government in Northern Ireland] under this section in respect of a tort committed by that department or officer, apply in relation to the [Crown

- (a) Modified (plant breeders' rights) 1964 c. 14, s. 14.
- (b) To be construed as reference to Sovereign for time being 1978 c. 30, s. 10.
- (c) Applied (occupiers' liability) 1957 c. 25 (N.I.) s. 6.

in right of His Majesty's Government in Northern Ireland] as it would have applied in relation to that department or officer if the proceedings against the [Crown in right of His Majesty's Government in Northern Ireland] had been proceedings against that department or officer.

(5) No proceedings shall lie against the [Crown in right of His Majesty's Government in Northern Ireland] by virtue of this section in respect of anything done or omitted to be done by any person while discharging or purporting to discharge any responsibilities of a judicial nature vested in him, or any responsibilities which he has in connection with the execution of judicial process.

(6) No proceedings shall lie against the [Crown in right of His Majesty's Government in Northern Ireland] by virtue of this section in respect of any act, neglect or default of any officer of [His Majesty's Government in Northern Ireland], unless that officer has been directly or indirectly appointed by the [Crown in right of His Majesty's Government in Northern Ireland] and was at the material time paid in respect of his duties as an officer of [His Majesty's Government in Northern Ireland] wholly out of the [Consolidated Fund of Northern Ireland, moneys appropriated for that purpose] [*words excepted*] or any other Fund certified by the [Department of Finance] for the purposes of this subsection or was at the material time holding an office in respect of which the [Department of Finance] certifies that the holder thereof would normally be so paid.

Provisions
as to
industrial
property.

3(a).—(1) Where after [1st January 1950] any servant or agent of [His Majesty's Government in Northern Ireland] infringes a patent, or infringes a registered trade mark, or infringes any copyright (including any copyright in a design subsisting under the Patents and Designs Acts, 1907 to 1946) and the infringement is committed with the authority of the [Crown in right of His Majesty's Government in Northern Ireland], then, subject to the provisions of this Act, civil proceedings in respect of the infringement shall lie against the [Crown in right of His Majesty's Government in Northern Ireland].

1949 c. 88.
1977 c. 37.

(2)(b) Nothing in the preceding subsection or in any other provision of this Act shall affect the rights of any [Northern Ireland] department under Schedule 1 to the Registered Designs Act 1949 or section 55 of the Patents Act 1977, [*the remainder of the subsection is excepted*].

(3) Save as expressly provided by this section, no proceedings shall lie against the [Crown in right of His Majesty's Government in Northern Ireland] by virtue of this Act in respect of the infringement of a patent, in respect of the infringement of a registered trade mark, or in respect of the infringement of any such copyright as is mentioned in subsection (1) of this section.

Application
of law as to
indemnity,
contribu-
tion, joint
and several
tortfeasors,
and
contributory
negligence.

4.—(1) Where the Crown in right of His Majesty's Government in Northern Ireland is subject to any liability by virtue of this Part of this Act, the law for the time being in force in Northern Ireland relating to indemnity and contribution shall be enforceable by or against the Crown in right of His Majesty's Government in Northern Ireland in respect of the liability to which it is so subject as if the Crown in right of His Majesty's Government in Northern Ireland were a private person of full age and capacity.

(a) Explained (copyright) 1956 c. 74, s. 39(8).

(b) Subsection (2) substituted 1977 c. 37, s. 132(6), Sch. 5, para. 1.

(2) Without prejudice to the general effect of section 2 of this Act, section 2 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 (which amends the law relating to contributory negligence), and so much of sections 4 and 6 of that Act as relates to section 2 thereof, shall bind the Crown in right of His Majesty's Government in Northern Ireland, so however that in relation to proceedings against the Crown in right of His Majesty's Government in Northern Ireland the references in subsection (1) of the said section 4 to the passing of that Act of 1948 shall be construed as references to 1st January 1950.]

1948 c. 23
(N.I.).

5(a).—(1)(b) The provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of ships shall, with any necessary modifications, apply for the purposes of limiting the liability of His Majesty in respect of His Majesty's ships; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.

Liability in respect of Crown ships, etc.

(2) Without prejudice to the provisions of the preceding subsection, where a ship is built at any port or place within His Majesty's dominions, and His Majesty is interested in her by reason of the fact that she is built by or on behalf of or to the order of His Majesty in right of His Government in [Northern Ireland], the provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of ships shall, with any necessary modifications, apply for the purpose of limiting the liabilities in respect of that ship of His Majesty, her builders, her owners, and any other persons interested in her; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.

This subsection shall have effect only in respect of the period from and including the launching of the ship until the time of her completion, and shall not in any event have effect in respect of any period during which His Majesty is not so interested in the ship as aforesaid. In relation to a ship built to the order of His Majesty in right of His Government in [Northern Ireland], the time of her completion shall be taken for the purposes of this subsection to be the time when His Majesty, acting in His said right, finally takes delivery of her under the building contract.

(3) Where any ship has been demised or sub-demised by His Majesty acting in right of His Government in [Northern Ireland], then, whether or not the ship is registered for the purposes of the Merchant Shipping Acts, 1894 to 1940, the provisions of those Acts which limit the amount of the liability of the owners of ships shall, in respect of the period for which the demise or sub-demise continues, apply, with any necessary modifications, for the purpose of limiting the liabilities in respect of the ship of any person entitled to her by demise or sub-demise; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.

This subsection shall be deemed always to have had effect.

(4) Where by virtue of any arrangement between His Majesty and some other person (not being a servant of His Majesty) that other person (hereinafter referred to as "the manager") is entrusted with the management of any of His Majesty's ships, the provisions of the Merchant Shipping Acts, 1894 to 1940,

(a) The following section is prospectively substituted for section 5 by 1979 c. 39, Sch. 5, para. 3 (commencement date not yet appointed)—

5.—(1) The provisions of sections 17 and 18 of the Merchant Shipping Act 1979 and of Schedule 4 to that Act (liability of shipowners and salvors) shall apply in relation to His Majesty's ships as they apply in relation to other ships.

(2) In this section "ships" has the same meaning as in those provisions.

(b) Extended (hovercraft) S.I. 1979/305 Art. 8(1).

which limit the amount of the liability of the owners of ships shall apply for the purpose of limiting the manager's liability in respect of the ship while so entrusted; and any provision of the said Acts which relates to or is ancillary to or consequential on the provisions so applied shall have effect accordingly.

This subsection shall be deemed always to have had effect.

(5) Where for the purposes of any enactment as applied by this section it is necessary to ascertain the tonnage of any ship, and that ship is not registered for the purposes of the Merchant Shipping Acts, 1894 to 1940, the tonnage of the ship shall be taken for the purposes of that enactment to be the tonnage arrived at by:—

- 1965 c. 47.
- (a) ascertaining her tonnage in accordance with (a) regulations made under the Merchant Shipping Act 1965, and deducting from her tonnage as so ascertained ten per cent. thereof; or
 - (b) where it is impossible to ascertain her tonnage as provided by paragraph (a) of this subsection, taking her estimated tonnage as certified for the purposes of this paragraph, and deducting from her estimated tonnage as so certified ten per cent. thereof.

Where it is necessary to ascertain the tonnage of a ship in the manner provided by paragraph (b) of this subsection, the Chief Ships Surveyor of the Ministry of Transport (b), or the officer for the time being discharging the functions of the said Surveyor, shall, upon the direction of the court concerned, and after considering such evidence of the dimensions of the ship as it may be practicable to obtain, estimate what her tonnage would have been found to be if she could have been duly measured for the purpose, and issue a certificate stating her tonnage as so estimated by him.

1894 c. 60. (6) For the purposes of this section the expression "ship" has the meaning assigned to it by section seven hundred and forty-two of the Merchant Shipping Act, 1894, but includes also:—

- 1958 c. 62.
- (a)(c) any structure to which Part VIII of that Act is applied by section 4 of the Merchant Shipping (Liability of Shipowners and Others) Act 1958; and
 - (b) every description of lighter, barge or like vessel used in navigation in [Northern Ireland], however propelled, so, however, that a vessel used exclusively in non-tidal waters, other than harbours, shall not for the purposes of this paragraph be deemed to be used in navigation.

(7) Any reference in this section to the provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of ships shall be construed as including a reference to any provision of those Acts which negatives the liability of the owner of a ship, and accordingly any reference in this section to limiting the liability of any person shall be construed as including a reference to negating his liability.

(8) Relief shall not be available by virtue of sections 3 and 4 of the Merchant Shipping (Liability of Shipowners and Others) Act 1958(d) in any case in which it is available by virtue of this section.

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- (a) Amended 1965 c. 47, s. 7(1), Sch. 1.
 - (b) To be construed as a reference to the Department of Trade, S.I. 1953/1204, 1959/1768, 1965/145, 1970/1537, 1974/692 Arts. 2(3), 5(3).
 - (c) Paragraph (a) substituted 1958 c. 62, s. 8(5).
 - (d) Reference to 1958 c. 62, ss. 3, 4 substituted by *ibid.* s. 8(5).

6.(a) The provisions of sections one, two and three of the Maritime Conventions Act, 1911 (which relate to the apportionment of damage or loss caused by vessels) shall apply in the case of vessels belonging to His Majesty as they apply in the case of other vessels.

Application to Crown ships of rules as to division of loss, etc. 1911 c. 57.

7.—(1) It is hereby declared that the provisions of the Merchant Shipping Acts, 1894 to 1940, which limit the amount of the liability of the owners of docks and canals, and of harbour and conservancy authorities, apply for the purpose of limiting the liability of His Majesty in His capacity as the owner of any dock or canal, or in His capacity as a harbour or conservancy authority, and that all the relevant provisions of the said Acts have effect in relation to His Majesty accordingly.

Liability in respect of Crown docks, harbours, etc.

(2) In this section the expressions “dock”, “harbour”, “owner”, “harbour authority” and “conservancy authority” have respectively the same meanings as they have for the purposes of section two of the Merchant Shipping (Liability of Shipowners and Others) Act, 1900.

1900 c. 32.

(3) In this section references to His Majesty include references to any [Northern Ireland] department and to any officer of [His Majesty’s Government in Northern Ireland] in his capacity as such.

8.—(1) Subject to the provisions of this Act, the law relating to civil salvage, whether of life or property, except sections five hundred and fifty-one to five hundred and fifty-four of the Merchant Shipping Act, 1894, or any corresponding provisions relating to aircraft, shall apply in relation to salvage services rendered after [1st January 1950] in assisting any of His Majesty’s ships or aircraft, or in saving life therefrom, or in saving any cargo or apparel belonging to His Majesty in right of His Government in [Northern Ireland], in the same manner as if the ship, aircraft, cargo or apparel belonged to a private person.

Salvage claims against the Crown in right of His Majesty’s Government in Northern Ireland and Crown rights to salvage. 1894 c. 60.

(2) Where after [1st January 1950] salvage services are rendered by or on behalf of His Majesty, whether in right of His Government in [Northern Ireland] or otherwise, His Majesty shall be entitled to claim salvage in respect of those services to the same extent as any other salvor, and shall have the same rights and remedies in respect of those services as any other salvor.

9. . . .(b)

[S. 10 is excepted]

Liability in connection with postal packets.

11.—(1) Nothing in Part I of this Act shall extinguish or abridge any powers or authorities which, if this Act had not been passed, would have been exercisable by virtue of the prerogative of the [Crown in right of His Majesty’s Government in Northern Ireland], or any powers or authorities conferred on the [Crown in right of His Majesty’s Government in Northern Ireland] by any statute, and, in particular, nothing in the said Part I shall extinguish or abridge any powers or authorities exercisable by the [Crown in right of His Majesty’s Government in Northern Ireland], whether in time of peace or of war, for the purpose of the defence of the realm [*the remainder of the subsection is excepted*].

Saving in respect of acts done under prerogative and statutory powers.

(2) Where in any proceedings under this Act it is material to determine whether anything was properly done or omitted to be done in the exercise of the prerogative of the [Crown in right of His Majesty’s Government in Northern Ireland], . . .(c) [the Head of a Northern Ireland department] may, if satisfied

(a) Extended (hovercraft) S.I. 1979/305 Art. 8(2).

(b) Section 9 repealed 1969 c. 48, s. 141, Sch. 11, Pt. II.

(c) Words repealed S.I. 1964/488.

that the act or omission was necessary for any such purpose as is mentioned in the last preceding subsection, issue a certificate to the effect that the act or omission was necessary for that purpose; and the certificate shall, in those proceedings, be conclusive as to the matter so certified.

[S. 12 is excepted]

PART II(a)

JURISDICTION AND PROCEDURE

The High Court

Civil proceedings in the High Court. 13. Subject to the provisions of this Act, all such civil proceedings by or against the [Crown in right of His Majesty's Government in Northern Ireland] as are mentioned in the First Schedule to this Act are hereby abolished, and all civil proceedings by or against the [Crown in right of His Majesty's Government in Northern Ireland] in the High Court shall be instituted and proceeded with in accordance with rules of court and not otherwise.

[The remainder of s. 13 is excepted]

Summary applications to High Court in certain matters concerning Northern Ireland revenue. 1973 c. 36. 14. Subject to and in accordance with rules of court, the Crown in right of His Majesty's Government in Northern Ireland may apply in a summary manner to the High Court—

- (a) for the payment of any tax (being a tax to which paragraph 8 of Schedule 2 to the Northern Ireland Constitution Act 1973 does not apply) levied under any enactment such as is mentioned in section 38(7) of this Act;
- (b) for the delivery of any account required to be delivered, or the furnishing of any information required to be furnished, in connection with such a tax by any such enactment or by any instrument made thereunder.]

County Courts

Civil proceedings in the county court. 15.—(1) Subject to the provisions of this Act, and to any enactment limiting the jurisdiction of a county court (whether by reference to the subject matter of the proceedings to be brought or the amount sought to be recovered in the proceedings or otherwise) any civil proceedings [by or] against the [Crown in right of His Majesty's Government in Northern Ireland] may be instituted in a county court.

(2) Any proceedings by or against the [Crown in right of His Majesty's Government in Northern Ireland] in a county court shall be instituted and proceeded with in accordance with county court rules and not otherwise.

General

Interpleader. S.I. 1981/226 (N.I.6). 16. The Crown in right of His Majesty's Government in Northern Ireland may obtain relief by way of interpleader proceedings, and may be made a party to such proceedings, in the same manner in which a subject may obtain relief by way of such proceedings or be made a party thereto; and the provisions of Article 44 of the Judgments Enforcement (Northern Ireland) Order 1981 relating to interpleader proceedings shall, subject to the provisions of this Act, have effect accordingly.]

(a) Applied (sex discrimination) S.I. 1976/1042 (N.I. 15) Art. 82(9) and (fair employment) 1976 c. 25, s. 51.

17.—[(1) The Department of the Civil Service for Northern Ireland shall publish a list specifying the several Northern Ireland departments which are authorised departments for the purposes of this Act [*words excepted*] and the name and address for service of the person who is, or is acting for the purposes of this Act as, the solicitor in Northern Ireland for each such department, and may from time to time amend or vary the said list. The said list may in relation to any such department specify different solicitors for different types of proceedings.]

Parties to proceedings.

Any document purporting to be a copy of a list published under this section and purporting to be printed under the superintendence or the authority of His Majesty's Stationery Office shall in any legal proceedings be received as evidence for the purpose of establishing what Northern Ireland departments are authorised departments for the purposes of this Act, and what person is, or is acting for the purposes of this Act as, the solicitor in Northern Ireland for any such department.]

(2) Civil proceedings by the [Crown in right of His Majesty's Government in Northern Ireland] may be instituted either by an authorised [Northern Ireland] department in its own name, whether that department was or was not at [1st January 1950] authorised to sue, or by the Attorney General.

(3) Civil proceedings against the [Crown in right of His Majesty's Government in Northern Ireland] shall be instituted against the appropriate authorised [Northern Ireland] department, or, if none of the authorised [Northern Ireland] departments is appropriate or the person instituting the proceedings has any reasonable doubt whether any and if so which of those departments is appropriate, against the Attorney General.

[(3A) Civil proceedings against the Crown may be instituted in Northern Ireland against the Attorney General if the alleged liability arises out of the performance of any function pursuant to an agency arrangement or the person instituting the proceedings has any reasonable doubt whether the alleged liability of the Crown arises in respect of His Majesty's Government in the United Kingdom or in respect of His Majesty's Government in Northern Ireland.]

(4) Where any civil proceedings against the [Crown in right of His Majesty's Government in Northern Ireland] are instituted against the Attorney General, an application may at any stage of the proceedings be made to the court by or on behalf of the Attorney General to have such of the authorised [Northern Ireland] departments as may be specified in the application substituted for him as defendant to the proceedings; and where any such proceedings are brought against an authorised [Northern Ireland] department, an application may at any stage of the proceedings be made to the court on behalf of that department to have the Attorney General or such of the authorised [Northern Ireland] departments as may be specified in the application substituted for the applicant as the defendant to the proceedings.

Upon any such application the court may if it thinks fit make an order granting the application on such terms as the court thinks just; and on such an order being made the proceedings shall continue as if they had been commenced against the department specified in that behalf in the order, or, as the case may require, against the Attorney General.

(5) No proceedings instituted in accordance with this Part of this Act by or against the Attorney General [*words excepted*] shall abate or be affected by any change in the person holding the office of Attorney General [*words excepted*].

Service of documents. 18. All documents required to be served on the [Crown in right of His Majesty's Government in Northern Ireland] for the purpose of or in connection with any civil proceedings by or against the [Crown in right of His Majesty's Government in Northern Ireland] shall, if those proceedings are by or against an authorised [Northern Ireland] department, be served on the solicitor, if any, for that department, or the person, if any, acting for the purposes of this Act as solicitor for that department, or if there is no such solicitor and no person so acting, or if the proceedings are brought by or against the Attorney General, on [the Crown Solicitor for Northern Ireland].

19.—[Subsection (1) is excepted]

Venue and related matters. (2) The trial of any civil proceedings by or against the [Crown in right of His Majesty's Government in Northern Ireland] in the High Court shall be held at the Royal Courts of Justice unless the court, with the consent of the [Crown in right of His Majesty's Government in Northern Ireland], otherwise directs.

Where the [Crown in right of His Majesty's Government in Northern Ireland] refuses its consent to a direction under this subsection the court may take account of the refusal in exercising its powers in regard to the award of costs.

(3) Nothing in this section shall prejudice the right of the [Crown in right of His Majesty's Government in Northern Ireland] to demand a local venue for the trial of any proceedings in which the Attorney General has waived his right to a trial at bar.

Removal and transfer of proceedings. 20(a).—(1) If in a case where proceedings are instituted against the [Crown in right of His Majesty's Government in Northern Ireland] in a county court an application in that behalf is made by the [Crown in right of His Majesty's Government in Northern Ireland] to the High Court, and there is produced to the court a certificate of the Attorney General to the effect that the proceedings may involve an important question of law, or may be decisive of other cases arising out of the same matter, or are for other reasons more fit to be tried in the High Court, the proceedings shall be removed into the High Court.

Where any proceedings have been removed into the High Court on the production of such a certificate as aforesaid, and it appears to the court by whom the proceedings are tried that the removal has occasioned additional expense to the person by whom the proceedings are brought, the court may take account of the additional expense so occasioned in exercising its powers in regard to the award of costs.

(2) Without prejudice to the rights of the [Crown in right of His Majesty's Government in Northern Ireland] under the preceding provisions of this section, all rules of law and enactments relating to the removal [*words excepted*] of proceedings from a county court to the High Court, or the [remittal] of proceedings from the High Court to a county court shall apply in relation to proceedings against the [Crown in right of His Majesty's Government in Northern Ireland].

Provided that:—

1978 c. 23. (a) [in accordance with section 31(8) (c) of the Judicature (Northern Ireland) Act 1978,] an order for the [remittal] to a county court of any proceedings against the [Crown in right of His Majesty's Government in Northern Ireland] in the High Court shall not be made without the consent of the [Crown in right of His Majesty's Government in Northern Ireland]; and

(b) in accordance with section 31(8) (b) of that Act, no enactment or rule of court shall have effect so as to require security to be given by the Crown in right of His Majesty's Government in Northern Ireland, or so as to authorise the making of an order requiring security to be given by the Crown in right of His Majesty's Government in Northern Ireland, in respect of any proceedings removed or transferred from a county court to the High Court; and

(a) Excluded (sex discrimination) S.I. 1976/1042 (N.I. 15) Art. 82(9) and (fair employment) 1976 c. 25, s. 51.

- (c) the provisions of any enactment or rule of court relating to costs in actions brought in the High Court which could have been brought in an inferior court shall not apply to any proceedings by the Crown in right of His Majesty's Government in Northern Ireland].

21.—(1) In any civil proceedings by or against the [Crown in right of His Majesty's Government in Northern Ireland] the court shall, subject to the provisions of this Act, have power to make all such orders as it has power to make in proceedings between subjects, and otherwise to give such appropriate relief as the case may require: Nature of relief.

Provided that:—

- (a) where in any proceedings against the [Crown in right of His Majesty's Government in Northern Ireland] any such relief is sought as might in proceedings between subjects be granted by way of injunction or specific performance, the court shall not grant an injunction or make an order for specific performance, but may in lieu thereof make an order declaratory of the rights of the parties; and
- (b) in any proceedings against the [Crown in right of His Majesty's Government in Northern Ireland] for the recovery of land or other property the court shall not make an order for the recovery of the land or the delivery of the property, but may in lieu thereof make an order declaring that the plaintiff is entitled as against the [Crown in right of His Majesty's Government in Northern Ireland] to the land or property or to the possession thereof.

(2) The court shall not in any civil proceedings grant any injunction or make any order against an officer of [His Majesty's Government in Northern Ireland] if the effect of granting the injunction or making the order would be to give any relief against the [Crown in right of His Majesty's Government in Northern Ireland] which could not have been obtained in proceedings against the [Crown in right of His Majesty's Government in Northern Ireland].

[21A. In any civil proceedings or proceedings in any arbitration to which the Crown in right of His Majesty's Government in Northern Ireland is a party, the costs of and incidental to the proceedings shall be awarded in the same manner and on the same principles as in cases between subjects, and the court or arbitrator shall have power to make an order for the payment of costs by or to the Crown in right of His Majesty's Government in Northern Ireland accordingly: Costs in civil proceedings to which the Crown in right of His Majesty's Government in Northern Ireland is a party.

Provided that—

- (a) in the case of proceedings to which by reason of any enactment or otherwise the Attorney General, a Northern Ireland department or any officer of His Majesty's Government in Northern Ireland as such is authorised to be made a party, the court or arbitrator shall have regard to the nature of the proceedings and the character and circumstances in which the Attorney General, department or officer appears, and may in the exercise of its or his discretion order any other party to the proceedings to pay the costs of the Attorney General, department or officer, whatever may be the result of the proceedings; and
- (b) nothing in this section shall affect the power of the court or arbitrator to order, or any enactment providing for, the payment of costs out of any particular fund or property, or any enactment expressly relieving any department or officer of His Majesty's Government in Northern Ireland of the liability to pay costs.]

Appeals and stay of execution. 22. Subject to the provisions of this Act, all enactments, rules of court and county court rules relating to appeals and stay of execution [and all enactments and Judgment Enforcement Rules relating to stay of enforcement of judgments] shall, with any necessary modifications apply to civil proceedings by or against the [Crown in right of His Majesty's Government in Northern Ireland] as they apply to proceedings between subjects.

Scope of Part II. 23.—(1) Subject to the provisions of this section, any reference in this Part of this Act to civil proceedings by the [Crown in right of His Majesty's Government in Northern Ireland] shall be construed as a reference to the following proceedings only:—

- (a) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by any such proceedings as are mentioned in paragraph 1 of the First Schedule to this Act;
- (b) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by an action at the suit of any [Northern Ireland] department or any officer of [His Majesty's Government in Northern Ireland] as such;
- (c) all such proceedings as the [Crown in right of His Majesty's Government in Northern Ireland] is entitled to bring by virtue of this Act;

and the expression "civil proceedings by or against the [Crown in right of His Majesty's Government in Northern Ireland]" shall be construed accordingly.

(2) Subject to the provisions of this section, any reference in this Part of this Act to civil proceedings against the [Crown in right of His Majesty's Government in Northern Ireland] shall be construed as a reference to the following proceedings only:—

- (a) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by any such proceedings as are mentioned in paragraph 2 of the First Schedule to this Act;
- (b) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by an action against the Attorney General, any [Northern Ireland] department, or any officer of [His Majesty's Government in Northern Ireland] as such; and
- (c) all such proceedings as any person is entitled to bring against the [Crown in right of His Majesty's Government in Northern Ireland] by virtue of this Act;

and the expression "civil proceedings by or against the [Crown in right of His Majesty's Government in Northern Ireland]" shall be construed accordingly.

[(3) Notwithstanding anything in the preceding provisions of this section, the provisions of this Part of this Act shall not have effect with respect to any of the following proceedings brought by or against the Crown in right of His Majesty's Government in Northern Ireland, that is to say:—

- (a) proceedings brought by the Attorney General on the relation of some other person;
- (b) proceedings in respect of charities by or against the Attorney General;

- (c) proceedings by or against the Department of Finance acting in pursuance of any enactment relating to charities;
- (d) proceedings by or against the Registrar of Titles in Northern Ireland or any officers of the Land Registry of Northern Ireland or proceedings for compensation under section 71 of the Land Registration Act (Northern Ireland) 1970.]

1970 c. 18,
(N.I.).

(4) Subject to the provisions of any Order in Council made under the provisions hereinafter contained, this part of this Act shall not affect proceedings initiated in any court other than the High Court or a county court.

PART III(a)

JUDGMENTS AND EXECUTION

24.—[(1) Article 127 of the Judgments Enforcement (Northern Ireland) Order 1981 (which provides that a money judgment shall, subject to certain exceptions and to any contrary provision in the judgment, carry interest) shall apply to money judgments given against or in favour of the Crown in right of His Majesty's Government in Northern Ireland.] Interest on debts, damages and costs. S.I. 1981/226 (N.I. 6).

[Subsection (2) is excepted]

(3) [Section 17 of the Law Reform (Miscellaneous Provisions) Act (Northern Ireland), 1937] (which empowers courts of record to award interest on debts and damages) shall apply to judgments given in proceedings by and against the [Crown in right of His Majesty's Government in Northern Ireland]. 1937 c. 9 (N.I.).

(4) This section shall apply both in relation to proceedings pending at [1st January 1950] and in relation to proceedings instituted thereafter.

25.—(1) Where in any civil proceedings by or against the [Crown in right of His Majesty's Government in Northern Ireland], or [on any application for judicial review pursuant to section 18 of the Judicature (Northern Ireland) Act 1978], or in connection with any arbitration to which the [Crown in right of His Majesty's Government in Northern Ireland] is a party, any order (including an order for costs) is made by any court in favour of any person against the [Crown in right of His Majesty's Government in Northern Ireland] or against a [Northern Ireland] department or against an officer of [His Majesty's Government in Northern Ireland] as such, the proper officer of the court shall, on an application in that behalf made by or on behalf of that person at any time after the expiration of twenty-one days from the date of the order or, in case the order provides for the payment of costs and the costs require to be taxed, at any time after the costs have been taxed, whichever is the later, issue to that person a certificate in the prescribed form containing particulars of the order: Satisfaction of orders against the Crown in right of His Majesty's Government in Northern Ireland. 1978 c. 23.

Provided that, if the court so directs, a separate certificate shall be issued with respect to the costs (if any) ordered to be paid to the applicant.

(2) A copy of any certificate issued under this section may be served by the person in whose favour the order is made upon the person for the time being named in the record as the solicitor, or as the person acting as solicitor, for the [Crown in right of His Majesty's Government in Northern Ireland] or for the [Northern Ireland] department or officer concerned.

(a) Applied (sex discrimination) S.I. 1976/1042 (N.I. 15) Art. 82(9) and (fair employment) 1976 c. 25, s. 51.

(3) If the order provides for the payment of any money by way of damages or otherwise, or of any costs, the certificate shall state the amount so payable, and the appropriate [Northern Ireland] department shall, subject as hereinafter provided, pay to the person entitled or to his solicitor the amount appearing by the certificate to be due to him together with the interest, if any, lawfully due thereon:

Provided that the court by which any such order as aforesaid is made or any court to which an appeal against the order lies may direct that, pending an appeal or otherwise, payment of the whole of any amount so payable, or any part thereof, shall be suspended, and if the certificate has not been issued may order any such directions to be inserted therein.

(4) Save as aforesaid [no order or process in the nature of execution shall be made by or issued out of any court, and no enforcement order shall be made by the Enforcement of Judgments Office,] for enforcing payment by the [Crown in right of His Majesty's Government in Northern Ireland] of any such money or costs as aforesaid, and no person shall be individually liable under any order for the payment by the [Crown in right of His Majesty's Government in Northern Ireland], or any [Northern Ireland] department, or any officer of [His Majesty's Government in Northern Ireland] as such, of any such money or costs.

(5) This section shall apply both in relation to proceedings pending at [1st January 1950] and in relation to proceedings instituted thereafter.

Execution
by the
Crown in
right of His
Majesty's
Government
in Northern
Ireland.

26.—(1) Subject to the provisions of this Act, any order made in favour of the [Crown in right of His Majesty's Government in Northern Ireland] against any person in any civil proceedings to which the [Crown in right of His Majesty's Government in Northern Ireland] is a party may be enforced in the same manner as an order made in an action between subjects, and not otherwise.

This subsection shall apply both in relation to proceedings pending at [1st January 1950] and in relation to proceedings instituted thereafter.

S.I.1981/226
(N.I. 6).

[(2) Without prejudice to the generality of subsection (1) above, the Judgments Enforcement (Northern Ireland) Order 1981, Judgment Enforcement Rules and rules of court shall, save as otherwise provided by any statutory provision within the meaning of that Order, apply to judgments given in favour of the Crown in right of His Majesty's Government in Northern Ireland.

(2A) Articles 106 and 107 of that Order of 1981 (which relate respectively to limitation on arrest and imprisonment of debtors and to committal for default) shall apply to sums of money payable and debts due to the Crown in right of His Majesty's Government in Northern Ireland.

(2B) Articles 115 and 125 of that Order of 1981 (which relate respectively to committal for contempt in certain cases of default and to the effect of imprisonment under Article 107 or 115) shall—

(a) have effect in relation to sums of money payable and debts due to the Crown in right of His Majesty's Government in Northern Ireland; and]

[Paragraph (b) is excepted]

(3) Nothing in this section shall affect any procedure which immediately before [1st January 1950] was available for enforcing an order made in favour of the [Crown in right of His Majesty's Government in Northern Ireland] in proceedings brought by the [Crown in right of His Majesty's Government in Northern Ireland] for the recovery of any fine or penalty, or the forfeiture or condemnation of any goods, or the forfeiture of any ship or any share in a ship.

27.—[(1) Except as provided in subsection (4), this section applies where any money is payable by the Crown in right of His Majesty's Government in Northern Ireland to some person ("the debtor") who, under an order of a court, is liable to pay any money to another person ("the creditor").

Attachment of moneys payable by the Crown in right of His Majesty's Government in Northern Ireland. S.I.1981/226 (N.I. 6). S.I. 1978/1045 (N.I.15).

(2) Where the creditor would, if the money so payable by the Crown in right of His Majesty's Government in Northern Ireland were money payable by a subject, be entitled under the Judgments Enforcement (Northern Ireland) Order 1981 to obtain from the Enforcement of Judgments Office, or under matrimonial causes rules made under Article 54 of the Matrimonial Causes (Northern Ireland) Order 1978 to obtain from the High Court or a divorce county court, an order for the attachment of the money as a debt due or accruing due, or an order for the appointment of a receiver to receive the money on his behalf, the Enforcement of Judgments Office, or, as the case may be, the High Court or the divorce county court, may, subject to the provisions of this Act:—

- (a) make an order restraining the debtor from receiving the money payable by the Crown in right of His Majesty's Government in Northern Ireland and directing its payment to the creditor (and such payment shall be a valid discharge to the Crown in right of His Majesty's Government in Northern Ireland); or
- (b) make an order appointing a receiver in accordance with the Judgments Enforcement (Northern Ireland) Order 1981 or, as the case may be, matrimonial causes rules.

(3) Where the debtor is a company and a sequestration order is made against it by a court under Article 113 of that Order of 1981, the court may also make an order restraining the debtor from receiving the money payable by the Crown in right of His Majesty's Government in Northern Ireland and directing its payment to the sequestrator (and such payment shall be a valid discharge to the Crown in right of His Majesty's Government in Northern Ireland).

- (4) An order shall not be made under subsection (2) or (3) in respect of—
 - (a) any wages or salary payable to any officer of His Majesty's Government in Northern Ireland as such;
 - (b) any money which is subject to the provisions of any enactment prohibiting or restricting assignment or charging or taking in execution or in the enforcement of a judgment; or

[Paragraph (c) is excepted]

(5) This section does not prejudice section 75 of the Judgments (Enforcement) Act (Northern Ireland) 1969(a) or Article 75 or Article 101 of the Judgments Enforcement (Northern Ireland) Order 1981 (attachment of earnings of persons employed under the Crown).] 1969 c. 30 (N.I.).

PART IV(b)

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

28.(c)—(1) Subject to and in accordance with rules of court and county court rules:— Discovery.

- (a) in any civil proceedings in the High Court or a county court to which the [Crown in right of His Majesty's Government in Northern Ireland] is a party, the [Crown in right of His Majesty's Government in Northern Ireland] may be required by the court to make discovery of documents and produce documents for inspection; and

(a) Section 75 was substituted by S.I. 1979/296 (N.I. 3) Art. 17(1), Sch. 1, Pt. I.
 (b) Applied (sex discrimination) S.I. 1976/1042 (N.I. 15) Art. 82(9) and (fair employment) 1976 c. 25, s. 51.
 (c) Modified (fair employment) 1976 c. 25, s. 51.

(b) in any such proceedings as aforesaid, the [Crown in right of His Majesty's Government in Northern Ireland] 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 [His Majesty's Government in Northern Ireland] 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 [the Head of a Northern Ireland department], it would be injurious to the public interest to disclose the existence thereof.

Exclusion of proceedings in rem against the Crown in right of His Majesty's Government in Northern Ireland. **29(a).**—(1) Nothing in this Act shall authorise proceedings in rem in respect of any claim against the [Crown in right of His Majesty's Government in Northern Ireland], or the arrest, detention or sale of any of His Majesty's ships, or of any cargo or other property belonging to the [Crown in right of His Majesty's Government in Northern Ireland], or give to any person any lien on any such ship, 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, 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 in right of His Majesty's Government in Northern Ireland] to set aside the proceedings, that the proceedings were so instituted by the plaintiff in the reasonable belief that the ship, cargo or other property did not belong to the [Crown in right of His Majesty's Government in Northern Ireland], order that the proceedings shall be treated as if they were in personam duly instituted against the [Crown in right of His Majesty's Government in Northern Ireland] 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.

Limitation of actions. 1911 c. 57. **30(b).**—(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 . . . (c) 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) . . . (c).

(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.

(a) References in s. 29 to ships, etc., include hovercraft S.I. 1972/971 Art. 4, Sch. 1.

(b) Extended (hovercraft) S.I. 1979/305 Art. 8(2).

(c) Words in subs. (1), and subs. (2), repealed 1954 c. 36, ss. 5(2), 8(2), Sch.

31.—(1) This Act shall not prejudice the right of the [Crown in right of His Majesty's Government in Northern Ireland] 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 in right of His Majesty's Government in Northern Ireland] 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 in right of His Majesty's Government in Northern Ireland].

Application to the Crown in right of His Majesty's Government in Northern Ireland of certain statutory provisions.

[Subsection (2) is excepted]

32. No claim by or against the [Crown in right of His Majesty's Government in Northern Ireland], and no proceedings for the enforcement of any such claim, shall abate or be affected by the demise of the Crown.

No abatement on demise of Crown.

33. No writ of extent or of diem clausit extremum shall issue after [1st January 1950].

Abolition of certain writs.

34. . . . (a)

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

Supplemental

35.—(1) Any power to make rules of court or county court rules shall include power to make rules for the purpose of giving effect to the provisions of this Act, and any such rules may contain provisions to have effect in relation to any proceedings by or against the [Crown in right of His Majesty's Government in Northern Ireland] in substitution for or by way of addition to any of the provisions of the rules applying to proceedings between subjects.

Rules of court and county court rules.

(2) Provision shall be made by rules of court and county court rules with respect to the following matters:—

- (a) for providing for service of process, or notice thereof, in the case of proceedings by the [Crown in right of His Majesty's Government in Northern Ireland] against persons, whether British subjects or not, who are not resident in the United Kingdom [or, in the case of county court rules, are not resident in Northern Ireland];
- (b) for securing that where any civil proceedings are brought against the [Crown in right of His Majesty's Government in Northern Ireland] in accordance with the provisions of this Act the plaintiff shall, before the [Crown in right of His Majesty's Government in Northern Ireland] is required to take any step in the proceedings, provide the [Crown in right of His Majesty's Government in Northern Ireland] with such information as the [Crown in right of His Majesty's Government in Northern Ireland] may reasonably require as to the circumstances in which it is alleged that the liability of the [Crown in right of His Majesty's Government in Northern Ireland] has arisen and as to the departments and officers of [His Majesty's Government in Northern Ireland] concerned;
- (c) for providing that in the case of proceedings against the [Crown in right of His Majesty's Government in Northern Ireland] the plaintiff shall not enter judgment against the [Crown in right of His Majesty's Government in Northern Ireland] in default of appearance or pleading

(a) Section 34 repealed 1953 c. 5, 1977 c. 38, s. 32(4), Sch. 5, Pt. V.

without the leave of the court to be obtained on an application of which notice has been given to the [Crown in right of His Majesty's Government in Northern Ireland];

- (d) for excepting proceedings brought against the [Crown in right of His Majesty's Government in Northern Ireland] from the operation of any rule of court providing for summary judgment without trial, [or of any county court rule providing for process by default];
- (e) for authorising the [Crown in right of His Majesty's Government in Northern Ireland] to deliver interrogatories without the leave of a court in any proceedings for the enforcement of any right for the enforcement of which proceedings by way of English information might have been taken if this Act had not been passed, so, however, that the [Crown in right of His Majesty's Government in Northern Ireland] shall not be entitled to deliver any third or subsequent interrogatories without the leave of the court;
- (f) for enabling evidence to be taken on commission in proceedings by or against the [Crown in right of His Majesty's Government in Northern Ireland];
- (g) for providing:—
 - (i) that a person shall not be entitled to avail himself of any set-off or counterclaim in any proceedings by the [Crown in right of His Majesty's Government in Northern Ireland] for the recovery of [such taxes, duties or penalties as the Northern Ireland Assembly has power to impose], or to avail himself in proceedings of any other nature by the [Crown in right of His Majesty's Government in Northern Ireland] of any set-off or counterclaim arising out of a right or claim to repayment in respect of any [such taxes, duties or penalties as the Northern Ireland Assembly has power to impose];
 - (ii) that a person shall not be entitled without the leave of the court to avail himself of any set-off or counterclaim in any proceedings by the [Crown in right of His Majesty's Government in Northern Ireland] if either the subject matter of the set-off or counterclaim does not relate to the [Northern Ireland] department in the name of which the proceedings are brought or the proceedings are brought in the name of the Attorney General;
 - (iii) that the [Crown in right of His Majesty's Government in Northern Ireland], when sued in the name of a [Northern Ireland] department, shall not, without the leave of the court, be entitled to avail itself of any set-off or counterclaim if the subject matter thereof does not relate to that department; and
 - (iv) that the [Crown in right of His Majesty's Government in Northern Ireland], when sued in the name of the Attorney General, shall not be entitled to avail itself of any set-off or counterclaim without the leave of the court.

(3) Provision may be made by rules of court for regulating any appeals to the High Court, whether by way of case stated or otherwise, under enactments relating to the revenue, and any rules made under this subsection may revoke any enactments or rules in force immediately before [1st January 1950] so far as they regulate any such appeals, and may make provision for any matters for which provision was made by any enactments or rules so in force.

36. Save as otherwise expressly provided, the provisions of this Act shall not affect proceedings by or against the [Crown in right of His Majesty's Government in Northern Ireland] which have been instituted before [1st January 1950]; and for the purposes of this section proceedings against the [Crown in right of His Majesty's Government in Northern Ireland] by petition of right shall be deemed to have been so instituted if a petition of right with respect to the matter in question has been left with a Secretary of State for submission to His Majesty before [1st January 1950]. Pending proceedings.

37.—(1) Any expenditure incurred by or on behalf of the [Crown in right of His Majesty's Government in Northern Ireland] by reason of the passing of this Act shall be defrayed out of moneys [appropriated for that purpose]. Financial provisions.

(2) Any sums payable to the [Crown in right of His Majesty's Government in Northern Ireland] by reason of the passing of this Act shall be paid into [the Consolidated Fund of Northern Ireland].

(3) Any order made under section 25 of this Act, or otherwise as the result of the passing of this Act, in any proceedings brought against the Attorney General in accordance with section 17(3A) of this Act shall be satisfied by the Department of Finance out of money either appropriated or advanced to the Department by the Treasury for the purpose, so however that any sum expended by the Department in such satisfaction shall be defrayed out of the Consolidated Fund and the Consolidated Fund of Northern Ireland in such proportions as may be agreed in that behalf between the Treasury and the Department].

38.—(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 or county court rules made for the purposes of this Act. Interpretation.

(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:—

[" Agency arrangement " means an arrangement such as is mentioned in section 11 of the Northern Ireland Constitution Act 1973;] 1973 c. 36.

" Agent ", when used in relation to the [Crown in right of His Majesty's Government in Northern Ireland], includes an independent contractor employed by the [Crown in right of His Majesty's Government in Northern Ireland];

[" Attorney General " means the Attorney General for Northern Ireland;]

" Civil proceedings " includes proceedings in the High Court or the county court for the recovery of fines or [such penalties as the Northern Ireland Assembly has power to impose], but does not include [an application for judicial review pursuant to section 18 of the Judicature (Northern Ireland) Act 1978]; 1978 c. 23.

[" County court " means a county court in Northern Ireland;

" County court rules " has the same meaning as in section 21(5) of the Interpretation Act (Northern Ireland) 1954; 1954 c. 33 (N.I.).

" Department of Finance " means the Department of Finance for Northern Ireland;

" High Court " (except in a reference to that court as a prize court) means the High Court of Justice in Northern Ireland;]

“ His Majesty’s aircraft ”(a) does not include aircraft belonging to His Majesty otherwise than in right of His Government in [Northern Ireland];

“ His Majesty’s ships ”(a) means ships of which the beneficial interest is vested in His Majesty or which are registered as Government ships for the purposes of the Merchant Shipping Acts, 1894 to 1940, or which are for the time being demised or subdemised to or in the exclusive possession of the [Crown in right of His Majesty’s Government in Northern Ireland], except that the said expression does not include any ship in which His Majesty is interested otherwise than in right of His Government in [Northern Ireland] unless that ship is for the time being demised or subdemised to His Majesty in right of His said Government or in the exclusive possession of His Majesty in that right;

“ Officer ”, in relation to the [Crown in right of His Majesty’s Government in Northern Ireland], includes any servant of [His Majesty’s Government in Northern Ireland], and accordingly (but without prejudice to the generality of the foregoing provisions) includes [the Head of a Northern Ireland department];

“ Order ” includes a judgment, decree, rule, award or declaration [or a dismiss by a county court];

“ Prescribed ” means prescribed by rules of court or county court rules, as the case may be;

“ Proceedings against the [Crown in right of His Majesty’s Government in Northern Ireland] ” includes a claim by way of set-off or counterclaim raised in proceedings by the [Crown in right of His Majesty’s Government in Northern Ireland];

[“ Royal Courts of Justice ” means those courts at Belfast;

1954 c. 33 “ Rules of court ” has the same meaning as in section 21(4) of the Interpretation Act (Northern Ireland) 1954;]

1894 c. 60. “ Ship ” has the meaning assigned to it by section seven hundred and forty-two of the Merchant Shipping Act 1894;

“ Statutory duty ” means any duty imposed by or under any [enactment].

[Subsection (3) is excepted]

(4) Any reference in Parts III or IV of this Act to civil proceedings by or against the [Crown in right of His Majesty’s Government in Northern Ireland], or to civil proceedings to which the [Crown in right of His Majesty’s Government in Northern Ireland] is a party, shall be construed as including a reference to civil proceedings to which the Attorney General, or any [Northern Ireland department], or any officer of [His Majesty’s Government in Northern Ireland] as such is a party:

Provided that the [Crown in right of His Majesty’s Government in Northern Ireland] 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.

[Subsection (5) is excepted]

(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.

(a) Applied (restriction of proceedings, etc.) 1956 c. 46, Sch. 1, Pt. I, para. 7(2).

[(7) Any reference (however expressed) in this Act to an enactment or an Act includes an enactment of the Irish Parliament, the Parliament of Northern Ireland or the Northern Ireland Assembly or an enactment contained in an Order in Council made under section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972 or paragraph 1 of Schedule 1 to the Northern Ireland Act 1974]. 1972 c. 22.
1974 c. 21.

39 . . . (a).

Repeals, &c.

40.—(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. Savings.

(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 in right of His Majesty's Government in Northern Ireland] under or in accordance with this Act in respect of any alleged liability of the [Crown in right of His Majesty's Government in Northern Ireland] arising otherwise than in respect of His Majesty's Government in [Northern Ireland], or affect proceedings against the [Crown in right of His Majesty's Government in Northern Ireland] 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 [Northern Ireland]; or
- (d) subject the [Crown in right of His Majesty's Government in Northern Ireland] to any greater liabilities in respect of the acts or omissions of any independent contractor employed by the [Crown in right of His Majesty's Government in Northern Ireland] than those to which the [Crown in right of His Majesty's Government in Northern Ireland] would be subject in respect of such acts or omissions if it were a private person; or
- (e) . . . (b)
- (f) affect any rules of evidence or any presumption [or enactment] relating to the extent to which the [Crown in right of His Majesty's Government in Northern Ireland] is bound by any Act of Parliament; or
- (g) affect any right of the [Crown in right of His Majesty's Government in Northern Ireland] to demand a trial at bar or to control or otherwise intervene in proceedings affecting its rights, property or profits; or

[Paragraph (h) is excepted]

and, without prejudice to the general effect of the foregoing provisions, [but subject to the provisions of section 17(3A) and section 37(3) of this Act], Part III of this Act shall not apply to the Crown except in right of His Majesty's Government in [Northern Ireland].

(3) A certificate of a Secretary of State:—

- (a) to the effect that any alleged liability of the Crown arises [neither in respect of His Majesty's Government in the United Kingdom nor in respect of His Majesty's Government in Northern Ireland];

(a) Section 39 repealed 1950 (14 Geo. 6) c. 6, S.I. 1970/1681.

(b) Paragraph (e) repealed 1961 c. 63, s. 1(6)(a).

(b) to the effect that any proceedings by the Crown are proceedings [neither in right of His Majesty's Government in the United Kingdom nor in right of His Majesty's Government in Northern Ireland];

shall, for the purposes of this Act, be conclusive as to the matter so certified.

(4) Where any property vests in the [Crown in right of His Majesty's Government in Northern Ireland] by virtue of any rule of law which operates independently of the acts or the intentions of the [Crown in right of His Majesty's Government in Northern Ireland], the [Crown in right of His Majesty's Government in Northern Ireland] 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 in right of His Majesty's Government in Northern Ireland] under this Act in respect of any period after the [Crown in right of His Majesty's Government in Northern Ireland] or any person acting for the [Crown in right of His Majesty's Government in Northern Ireland] 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 [1st January 1950], notwithstanding that by reason of the provisions of this Act some other and further remedy is available.

[Part V (application to Scotland) is excepted]

PART VI

EXTENT, COMMENCEMENT, SHORT TITLE, &C.

[S. 52 is excepted]

Provisions as to Northern Ireland. 53.—(1) His Majesty may by Order in Council provide for extending this Act to Northern Ireland with such additions, exceptions and modifications as appear to His Majesty to be expedient.

(2) An Order in Council under this section may provide for amending the law both in its application to the Crown in right of His Majesty's Government in the United Kingdom and in its application to the Crown in right of His Majesty's Government in Northern Ireland.

(3) An Order in Council under this section may provide for amending the law:—

(a) with respect to the right of the Crown to sue in a county court in Northern Ireland; and

(b) with respect to the award of costs to or against the Crown in Northern Ireland.

(4) An Order in Council under this section may be varied or revoked by a further Order in Council made thereunder.

(5) An Order in Council under this section may include such provisions as appear to His Majesty to be incidental to or consequential on any provisions contained in such an Order by virtue of the preceding provisions of this section.

(6) . . . (a)

(a) Subsection (6) repealed 1973 c. 36, s. 41, Sch. 6, Pt. I.

(7) 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 as respects things previously done or omitted to be done, without prejudice, however, to the making of a new Order. . . (a).

54.—(1) This Act may be cited as the Crown Proceedings Act, 1947.

Short title.

(2) . . . (b)

SCHEDULES

FIRST SCHEDULE

PROCEEDINGS ABOLISHED BY THIS ACT

1.—(1) Latin informations and English informations.

Section 23.

(2) Writs of *capias ad respondendum*, writs of *subpoena ad respondendum*, and writs of appraisalment.

(3) Writs of *scire facias*.

(4) Proceedings for the determination of any issue upon a writ of extent or of *diem clausit extremum*.

(5) Writs of summons under Part V of the Crown Suits Act, 1865.

1865 c.104.

2.—(1) Proceedings against His Majesty by way of a petition of right, [*the remainder of sub-paragraph (1) is excepted*].

(2) Proceedings against His Majesty by way of *monstrans de droit*.

SECOND SCHEDULE

. . .(c).

(a) Remainder of subs. (7) repealed 1953 c. 5.
 (b) Subsection (2) repealed 1950 (14 Geo. 6) c. 6.
 (c) Schedule 2 repealed 1950 (14 Geo. 6) c. 6.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, which supersedes the Northern Ireland (Crown Proceedings) Order 1949 and the Northern Ireland (Crown Proceedings) (Amendment) Order 1971, extends the Crown Proceedings Act 1947 to Northern Ireland with such additions, exceptions and modifications as are needed to make the Act effective in Northern Ireland both in relation to the Crown in right of the Government of the United Kingdom and in relation to the Crown in right of the Government of Northern Ireland.

The changes made from the earlier Orders either are consequential on intervening legislation—in particular, the Northern Ireland Constitution Act 1973, the Judicature (Northern Ireland) Act 1978 and the Judgments Enforcement (Northern Ireland) Order 1981—or are of a minor or technical nature.

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