



Supreme Court Act 1981

1981 CHAPTER 54

PART II

JURISDICTION

THE HIGH COURT

Admiralty jurisdiction

20 Admiralty jurisdiction of High Court

- (1) The Admiralty jurisdiction of the High Court shall be as follows, that is to say—
- (a) jurisdiction to hear and determine any of the questions and claims mentioned in subsection (2);
 - (b) jurisdiction in relation to any of the proceedings mentioned in subsection (3);
 - (c) any other Admiralty jurisdiction which it had immediately before the commencement of this Act; and
 - (d) any jurisdiction connected with ships or aircraft which is vested in the High Court apart from this section and is for the time being by rules of court made or coming into force after the commencement of this Act assigned to the Queen's Bench Division and directed by the rules to be exercised by the Admiralty Court.
- (2) The questions and claims referred to in subsection (1)(a) are—
- (a) any claim to the possession or ownership of a ship or to the ownership of any share therein;
 - (b) any question arising between the co-owners of a ship as to possession, employment or earnings of that ship ;
 - (c) any claim in respect of a mortgage of or charge on a ship or any share therein ;
 - (d) any claim for damage received by a ship ;
 - (e) any claim for damage done by a ship ;

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- (f) any claim for loss of life or personal injury sustained in consequence of any defect in a ship or in her apparel or equipment, or in consequence of the wrongful act, neglect or default of—
 - (i) the owners, charterers or persons in possession or control of a ship ; or
 - (ii) the master or crew of a ship, or any other person for whose wrongful acts, neglects or defaults the owners, charterers or persons in possession or control of a ship are responsible,
 being an act, neglect or default in the navigation or management of the ship, in the loading, carriage or discharge of goods on, in or from the ship, or in the embarkation, carriage or disembarkation of persons on, in or from the ship ;
 - (g) any claim for loss of or damage to goods carried in a ship;
 - (h) any claim arising out of any agreement relating to the carriage of goods in a ship or to the use or hire of a ship;
 - (j) any claim in the nature of salvage (including any claim arising by virtue of the application, by or under section 51 of the Civil Aviation Act 1949, of the law relating to salvage to aircraft and their apparel and cargo);
 - (k) any claim in the nature of towage in respect of a ship or an aircraft:
 - (l) any claim in the nature of pilotage in respect of a ship or an aircraft;
 - (m) any claim in respect of goods or materials supplied to a ship for her operation or maintenance ;
 - (n) any claim in respect of the construction, repair or equipment of a ship or in respect of dock charges or dues;
 - (o) any claim by a master or member of the crew of a ship for wages (including any sum allotted out of wages or adjudged by a superintendent to be due by way of wages);
 - (p) any claim by a master, shipper, charterer or agent in respect of disbursements made on account of a ship;
 - (q) any claim arising out of an act which is or is claimed to be a general average act;
 - (r) any claim arising out of bottomry ;
 - (s) any claim for the forfeiture or condemnation of a ship or of goods which are being or have been carried, or have been attempted to be carried, in a ship, or for the restoration of a ship or any such goods after seizure, or for droits of Admiralty.
- (3) The proceedings referred to in subsection (1)(b) are—
- (a) any application to the High Court under the Merchant Shipping Acts 1894 to 1979 other than an application under section 55 of the Merchant Shipping Act 1894 for the appointment of a person to act as a substitute for a person incapable of acting;
 - (b) any action to enforce a claim for damage, loss of life or personal injury arising out of—
 - (i) a collision between ships; or
 - (ii) the carrying out of or omission to carry out a manoeuvre in the case of one or more of two or more ships; or
 - (iii) non-compliance, on the part of one or more of two or more ships, with the collision regulations;

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- (c) any action by shipowners or other persons under the Merchant Shipping Acts 1894 to 1979 for the limitation of the amount of their liability in connection with a ship or other property.
- (4) The jurisdiction of the High Court under subsection (2) (b) includes power to settle any account outstanding and unsettled between the parties in relation to the ship, and to direct that the ship, or any share thereof, shall be sold, and to make such other order as the court thinks fit.
- (5) Subsection (2)(e) extends to—
 - (a) any claim in respect of a liability incurred under the Merchant Shipping (Oil Pollution) Act 1971 ; and
 - (b) any claim in respect of a liability falling on the International Oil Pollution Compensation Fund under Part I of the Merchant Shipping Act 1974.
- (6) The reference in subsection (2)(j) to claims in the nature of salvage includes a reference to such claims for services rendered in saving life from a ship or an aircraft or in preserving cargo, apparel or wreck as, under sections 544 to 546 of the Merchant Shipping Act 1894, or any Order in Council made under section 51 of the Civil Aviation Act 1949, are authorised to be made in connection with a ship or an aircraft.
- (7) The preceding provisions of this section apply—
 - (a) in relation to all ships or aircraft, whether British or not and whether registered or not and wherever the residence or domicile of their owners may be ;
 - (b) in relation to all claims, wherever arising (including, in the case of cargo or wreck salvage, claims in respect of cargo or wreck found on land); and
 - (c) so far as they relate to mortgages and charges, to all mortgages or charges, whether registered or not and whether legal or equitable, including mortgages and charges created under foreign law:

Provided that nothing in this subsection shall be construed as extending the cases in which money or property is recoverable under any of the provisions of the Merchant Shipping Acts 1894 to 1979.

21 Mode of exercise of Admiralty jurisdiction

- (1) Subject to section 22, an action in personam may be brought in the High Court in all cases within the Admiralty jurisdiction of that court.
- (2) In the case of any such claim as is mentioned in section 20(2)(a), (c) or (s) or any such question as is mentioned in section 20(2)(b), an action in rem may be brought in the High Court against the ship or property in connection with which the claim or question arises.
- (3) In any case in which there is a maritime lien or other charge on any ship, aircraft or other property for the amount claimed, an action in rem may be brought in the High Court against that ship, aircraft or property.
- (4) In the case of any such claim as is mentioned in section 20(2)(e) to (r), where
 - (a) the claim arises in connection with a ship; and
 - (b) the person who would be liable on the claim in an action in personam (" the relevant person ") was, when, the cause of action arose, the owner or charterer of, or in possession or in control of, the ship,

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an action in rem may (whether or not the claim gives rise to a maritime lien on that ship) be brought in the High Court against—

- (i) that ship, if at the time when the action is brought the relevant person is either the beneficial owner of that ship as respects all the shares in it or the charterer of it under a charter by demise; or
 - (ii) any other ship of which, at the time when the action is brought, the relevant person is the beneficial owner as respects all the shares in it.
- (5) In the case of a claim in the nature of towage or pilotage in respect of an aircraft, an action in rem may be brought in the High Court against that aircraft if, at the time when the action is brought, it is beneficially owned by the person who would be liable on the claim in an action in personam.
- (6) Where, in the exercise of its Admiralty jurisdiction, the High Court orders any ship, aircraft or other property to be sold, the court shall have jurisdiction to hear and determine any question arising as to the title to the proceeds of sale.
- (7) In determining for the purposes of subsections (4) and (5) whether a person would be liable on a claim in an action in personam it shall be assumed that he has his habitual residence or a place of business within England or Wales.
- (8) Where, as regards any such claim as is mentioned in section 20(2) (e) to (r), a ship has been served with a writ or arrested in an action in rem brought to enforce that claim, no other ship may be served with a writ or arrested in that or any other action in rem brought to enforce that claim; but this subsection does not prevent the issue, in respect of any one such claim, of a writ naming more than one ship or of two or more writs each naming a different ship.

22 Restrictions on entertainment of actions in personam in collision and other similar cases

- (1) This section applies to any claim for damage, loss of life or personal injury arising out of—
- (a) a collision between ships ; or
 - (b) the carrying out of, or omission to carry out, a manoeuvre in the case of one or more of two or more ships; or
 - (c) non-compliance, on the part of one or more of two or more ships, with the collision regulations.
- (2) The High Court shall not entertain any action in personam to enforce a claim to which this section applies unless—
- (a) the defendant has his habitual residence or a place of business within England or Wales ; or
 - (b) the cause of action arose within inland waters of England or Wales or within the limits of a port of England or Wales ; or
 - (c) an action arising out of the same incident or series of incidents is proceeding in the court or has been heard and determined in the court.

In this subsection—

" inland waters " includes any part of the sea adjacent to the coast of the United Kingdom certified by the Secretary of State to be waters falling by international law to be treated as within the territorial sovereignty of Her Majesty apart from the operation of that law in relation to territorial waters ;

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"port" means any port, harbour, river, estuary, haven, dock, canal or other place so long as a person or body of persons is empowered by or under an Act to make charges in respect of ships entering it or using the facilities therein, and "limits of a port" means the limits thereof as fixed by or under the Act in question or, as the case may be, by the relevant charter or custom;

"charges" means any charges with the exception of light dues, local light dues and any other charges in respect of lighthouses, buoys or beacons and of charges in respect of pilotage.

- (3) The High Court shall not entertain any action in personam to enforce a claim to which this section applies until any proceedings previously brought by the plaintiff in any court outside England and Wales against the same defendant in respect of the same incident or series of incidents have been discontinued or otherwise come to an end.
- (4) Subsections (2) and (3) shall apply to counterclaims (except counterclaims in proceedings arising out of the same incident or series of incidents) as they apply to actions, the references to the plaintiff and the defendant being for this purpose read as references to the plaintiff on the counterclaim and the defendant to the counterclaim respectively.
- (5) Subsections (2) and (3) shall not apply to any action or counterclaim if the defendant thereto submits or has agreed to submit to the jurisdiction of the court.
- (6) Subject to the provisions of subsection (3), the High Court shall have jurisdiction to entertain an action in personam to enforce a claim to which this section applies whenever any of the conditions specified in subsection (2)(a) to (c) is satisfied, and the rules of court relating to the service of process outside the jurisdiction shall make such provision as may appear to the rule-making authority to be appropriate having regard to the provisions of this subsection.
- (7) Nothing in this section shall prevent an action which is brought in accordance with the provisions of this section in the High Court being transferred, in accordance with the enactments in that behalf, to some other court.
- (8) For the avoidance of doubt it is hereby declared that this section applies in relation to the jurisdiction of the High Court not being Admiralty jurisdiction, as well as in relation to its Admiralty jurisdiction.

23 High Court not to have jurisdiction in cases within Rhine Convention

The High Court shall not have jurisdiction to determine any claim or question certified by the Secretary of State to be a claim or question which, under the Rhine Navigation Convention, falls to be determined in accordance with the provisions of that Convention; and any proceedings to enforce such a claim which are commenced in the High Court shall be set aside.

24 Supplementary provisions as to Admiralty jurisdiction

- (1) In sections 20 to 23 and this section, unless the context otherwise requires—
 - "collision regulations" means regulations under section 418 of the Merchant Shipping Act 1894, or any such rules as are mentioned in section 421(1) of that Act, or any rules made under section 421(2) of that Act;
 - "goods" includes baggage;

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" master " has the same meaning as in the Merchant Shipping Act 1894, and accordingly includes every person (except a pilot) having command or charge of a ship;

" the Rhine Navigation Convention " means the Convention of the 7th October 1868 as revised by any subsequent Convention;

" ship " includes any description of vessel used in navigation and (except in the definition of " port " in section 22(2) and in subsection (2)(c) of this section) includes, subject to section 2(3) of the Hovercraft Act 1968, a hovercraft;

" towage " and " pilotage ", in relation to an aircraft, mean towage and pilotage while the aircraft is water-borne.

(2) Nothing in sections 20 to 23 shall—

- (a) be construed as limiting the jurisdiction of the High Court to refuse to entertain an action for wages by the master or a member of the crew of a ship, not being a British ship;
- (b) affect the provisions of section 552 of the Merchant Shipping Act 1894 (power of a receiver of wreck to detain a ship in respect of a salvage claim); or
- (c) authorise proceedings in rem in respect of any claim against the Crown, or the arrest, detention or sale of any of Her Majesty's ships or Her Majesty's aircraft, or, subject to section 2(3) of the Hovercraft Act 1968, Her Majesty's hovercraft, or of any cargo or other property belonging to the Crown.

(3) In this section—

" Her Majesty's ships " and " Her Majesty's aircraft " have the meanings given by section 38(2) of the Crown Proceedings Act 1947;

" Her Majesty's hovercraft " means hovercraft belonging to the Crown in right of Her Majesty's Government in the United Kingdom or Her Majesty's Government in Northern Ireland.