



Administration of Justice Act 1956

1956 CHAPTER 46 4 and 5 Eliz 2

PART V

ADMIRALTY JURISDICTION AND ARRESTMENT OF SHIPS IN SCOTLAND

45 Jurisdiction in relation to collisions, etc.

- (1) Subject to the provisions of this Part of this Act, any court having Admiralty jurisdiction shall have jurisdiction to entertain, as against any defender, an action to which this section applies if, but only if,—
- (a) the defender has his habitual residence or a place of business in the area for which the court acts, or
 - (b) the cause of action arose in the area for which the court acts and either within inland waters or within the limits of a port, 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 by the court, or
 - (d) the defender has prorogated the jurisdiction of the court, or
 - (e) a ship in which the defender owns one or more shares has been arrested (whether ad fundandam jurisdictionem or on the dependence of the action) within the area for which the court acts.
- (2) Where an action to which this section applies is raised in a court having jurisdiction by virtue only of one or more of the provisions of the preceding subsection other than paragraph (d) thereof, and it appears to the court that cognate proceedings are depending in a competent court outside Scotland, the first mentioned court shall sist the action if so moved by any party thereto, and shall not recall the sist until satisfied that the cognate proceedings have been discontinued or have otherwise come to an end:

Provided that nothing in this subsection shall prevent the first mentioned court from entertaining any application as to diligence in the action.

In this subsection “cognate proceedings”, in relation to any action, means proceedings instituted, before the granting of warrant for service in the action, by the pursuer in the

Changes to legislation: There are currently no known outstanding effects for the Administration of Justice Act 1956, Section 45. (See end of Document for details)

action against any other party to the action, being proceedings in respect of the same incident or series of incidents as those with which the action is concerned.

(3) This section applies to actions for payment of reparation arising out of one or more of the following incidents, that is to say—

- (a) any collision between ships, or
- (b) the carrying out of, or the omission to carry out, a manoeuvre in the case of one or more of two or more ships, or
- (c) the non-compliance, on the part of one or more of two or more ships, with the collision regulations.

(4) In this section—

“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;

“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 or charter 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.

(5) For the avoidance of doubt it is hereby declared that any reference in this section to an action for payment of reparation does not include a reference to an action to make good a [F1maritime] lien.

(6) Section six of the ^{M1}Sheriff Courts (Scotland) Act 1907 (as amended by any subsequent enactment), shall cease to have effect in relation to actions to which this section applies.

Textual Amendments

F1 Words in s. 45(5) inserted (1.7.2010) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 213, 227(3), [Sch. 4 para. 2](#) (with s. 223); S.S.I. 2010/249, [art. 2](#)

Marginal Citations

M1 1907 c. 51.

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