



# Crown Proceedings Act 1947

## 1947 CHAPTER 44

### PART I

#### SUBSTANTIVE LAW.

#### **5 Liability in respect of Crown ships, and &c.**

- (1) 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

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*Status: This is the original version (as it was originally enacted).*

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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, 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 section seventy-seven of the Merchant Shipping Act, 1894, and the Rules contained in the Second Schedule to that Act, or those Rules as modified or altered from time to time under subsection (7) of the said section seventy-seven, 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, 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) any vessel which is a ship as defined by section four of the Merchant Shipping (Liability of Shipowners) Act, 1898 ; and
  - (b) every description of lighter, barge or like vessel used in navigation in Great Britain, 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 the Merchant Shipping (Liability of Shipowners) Act, 1898, in any case in which it is available by virtue of this section.