



# Prize Act 1939

## 1939 CHAPTER 65

An Act to apply prize law to aircraft; to amend and explain the enactments relating to prize; and to provide for purposes connected with the matters aforesaid. [1st September 1939.]

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

### **1 Application of prize law to aircraft**

- (1) Subject to the provisions of this section, the law relating to prize shall apply in relation to aircraft and goods carried therein as it applies in relation to ships and goods carried therein, and shall so apply notwithstanding that the aircraft is on or over land.
- (2) The amendments specified in the second column of Part I of the Schedule to this Act (being amendments necessary for giving effect to the preceding subsection) shall be made in the Acts specified in the first column of that Part of that Schedule.
- (3) The provisions of the Naval Prize Act, 1864, specified in Part II of the Schedule to this Act shall not apply in relation to aircraft or goods carried therein taken as prize.

### **2 Establishment of prize courts outside His Majesty's dominions**

- (1) The power conferred by section two of the Prize Courts Act, 1894, to issue any commission, warrant or instructions for the purpose of commissioning or regulating the procedure of a prize court, and to establish a Vice-Admiralty Court under the authority of any such commission or warrant, shall be exercisable not only in relation to a place in a British possession, but also in relation to a place in any of the following countries and territories, that is to say,—
  - (a) any British protectorate,
  - (b) any territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty, and is being exercised by His Majesty's

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Government in the United Kingdom, in the Commonwealth of Australia or in the Dominion of New Zealand, and

- (c) any other country or territory in which for the time being His Majesty has jurisdiction in matters of prize;

and accordingly subsection (1) of the said section shall have effect as if the reference therein to a British possession included a reference to any of the countries and territories mentioned in paragraphs (a) to (c) of this subsection; and subsection (2) of the said section shall, in relation to any of the said countries and territories, have effect as if for the reference in that subsection to the Vice-Admiral of the possession, there were substituted a reference to such authority as may be prescribed, in relation to that country or territory, by Order of His Majesty in Council.

- (2) The Admiralty may appoint a judge, registrar and marshal, and other officers, of any Vice-Admiralty court established by any commission or warrant the issue of which is authorised by section two of the Prize Courts Act, 1894, as amended by this section, in any of the countries and territories mentioned in paragraphs (a) to (c) of the preceding subsection.
- (3) Any commission or warrant for the purpose of commissioning or regulating the procedure of a prize court which has been issued before the commencement of this Act and is in force at the commencement of this Act, shall have effect as if any reference therein to ships included a reference to aircraft.

### **3 Certain courts declared to be prize courts**

For the removal of doubts it is hereby declared that Colonial Courts of Admiralty within the meaning of the Colonial Courts of Admiralty Act, 1890, courts to which paragraph (b) of the proviso to subsection (3) of section two of that Act applies by virtue of an Order in Council under section twelve of that Act, and Vice-Admiralty courts established by any commission or warrant the issue of which is authorised by section two of the Prize Courts Act, 1894, as amended by this Act, are prize courts within the meaning of the Naval Prize Act, 1864.

### **4 Extent of this Act and existing Prize Acts**

- (1) This Act extends to the following countries and territories, that is to say,—
- (a) the United Kingdom, the Channel Islands and the Isle of Man,
  - (b) the Commonwealth of Australia and the Dominion of New Zealand,
  - (c) British India and British Burma,
  - (d) Newfoundland and every colony,
  - (e) every British protectorate, and
  - (f) every territory in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty, and is being exercised by His Majesty's Government in the United Kingdom, in the Commonwealth of Australia or in the Dominion of New Zealand,
- and (to the extent of His Majesty's jurisdiction therein in matters of prize) to every other country or territory in which for the time being His Majesty has such jurisdiction.
- (2) The enactments relating to prize, as amended by this Act, shall extend to the countries and territories mentioned in paragraphs (e) and (f) of the preceding subsection, and (to the extent of His Majesty's jurisdiction therein in matters of prize) to every other country or territory in which for the time being His Majesty has such jurisdiction.

## **5 Short title and citation**

This Act may be cited as the Prize Act, 1939; and the Naval Prize Acts, 1864 to 1916, and this Act may be cited together as the Prize Acts, 1864 to 1939.

## SCHEDULE

Section 1.

## PART I

## AMENDMENTS OF PRIZE ACTS IN RELATION TO AIRCRAFT

Act amended.	Amendment.
<p>The Naval Prize Act, 1864 (27 &amp; 28 Vict. c. 25).</p>	<p>In section two, for the words " and others on " board any of Her Majesty's ships of " war" there shall be substituted the words " airmen and others on board any " of His Majesty's ships of war or any of " His Majesty's military aircraft " ; for the words " (other than ships) " there shall be substituted the words " but does not in- " elude ships, and does not include air-" craft which are not part of the cargo of a " ship " ; and at the end of that section there shall be inserted the following paragraphs :—</p> <p>“The term ' aircraft papers ' includes " all books, passes, charter parties, bills " of lading, manifests, certificates, " licences, lists, tickets, notes, letters " and other documents and writings " delivered up or found on board a " captured aircraft.”</p> <p>“The term ' any of His Majesty's " military aircraft ' includes any air-" craft belonging to His Majesty's naval, " military or air forces, and any hired " armed aircraft in His Majesty's service.”</p> <p>In section sixteen, after the second paragraph thereof there shall be inserted the following paragraphs :—</p> <p>“Every aircraft taken as prize and "brought to a place within the juris-" diction of a prize court, shall forthwith, " and without bulk broken, be delivered " up to the marshal of the court.”</p> <p>“If there is no such marshal, then the aircraft shall be in like manner delivered up to such person as the court may appoint”; and in the third paragraph thereof after the words " The ship " there shall be inserted the words " or aircraft ", and after the word " officer " there shall be inserted the words " or person " .</p>

## Act amended.

## Amendment.

In section seventeen, for the first paragraph thereof there shall be substituted the following paragraph :—

“The captors shall with all practicable " speed after the ship is brought into " port, or the aircraft is brought to a " place within the jurisdiction of a prize " court, bring the ship papers or the " aircraft papers, as the case may be, " into the registry of the court”; in the second paragraph thereof, after the words " capturing ship " there shall be inserted the words " or capturing aircraft " , , and after the words " ship papers " in each place where those words occur, there shall be inserted the words " or aircraft papers"; and in the third paragraph thereof, after the words " ship papers " there shall be inserted the words " or aircraft papers " , after the words " captured ship " there shall be inserted the words " or captured aircraft " , and after the words " capturing ship " there shall be inserted the words " or capturing aircraft " .

In section thirty-one, after the word "ships" there shall be inserted the words " and aircraft " ; and after the word "ship" there shall be inserted the words " or aircraft " .

In section forty, in the first paragraph thereof, after the word " ship " there shall be inserted the word " aircraft " , and after the words " any of Her Majesty's ships of war " there shall be inserted the words " or any of His Majesty's military aircraft " ; and in the second paragraph thereof after the word " ship " in each place where that word occurs, there shall be inserted the words " or aircraft " , and after the words as a ship of war " there shall be inserted the words " or as a military aircraft " .

In section forty-one, in the first paragraph thereof after the word " ship " there shall be inserted the words " or aircraft " , and after the words " any of Her Majesty's ships of war " there shall be inserted the words " or any of His Majesty's military aircraft " ; for the second paragraph thereof there shall be substituted the following paragraph :—

“The master or owner of the ship or his " agent, or the pilot or owner of the air-" craft

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## Act amended.

## Amendment.

or his agent, may, with the consent " of the recaptors, unload and dispose of " the goods on board the ship or aircraft, as " the case may be, before adjudication";

and in the third paragraph thereof after the words " United Kingdom " there shall be inserted the words " or the aircraft " does not, within six months, return to a " place within the United Kingdom," and after the word " ship " in the second place where that word occurs there shall be inserted the word " aircraft ".

In section forty-seven, after the word " ships " in each place where that word occurs there shall be inserted the word " aircraft " and after the words " United Kingdom " there shall be inserted the words " or brought ", to a place within the United Kingdom, " as the case may be,".

After section forty-eight, there shall be inserted the following section :—

“**48A** Where any aircraft or goods taken " as prize is or are brought to any place " within the jurisdiction of a prize court, " the pilot or other person in charge or " command of the aircraft which has been " taken or in which the goods are brought " shall, when required by any officer " of Customs deliver an account in " writing under his hand concerning " such aircraft and goods, giving " such particulars relating thereto as " may be in his power, and shall truly " answer all questions concerning such " aircraft or goods asked by any such " officer, and in default shall forfeit a " sum not exceeding one hundred pounds, " such forfeiture to be enforced as for " -feitures for offences against the laws " relating to the Customs are enforced; " and every such aircraft shall be liable " to such searches as other aircraft are " liable to; and the officers of the " Customs may freely go on board such " aircraft and bring to the King's ware- " house any goods on board the same, " subject, nevertheless, to such regul " -ations in respect of military aircraft " belonging to His Majesty as shall

Act amended.	Amendment.
The Prize Courts (Procedure) Act, 1914 (4 & 5 Geo. 5. c. 13).	<p data-bbox="901 392 1343 452">"from time to time be issued by the " Treasury.""</p> <p data-bbox="802 472 1343 757">In section fifty-five, in paragraph (1) thereof after the words " any of Her Majesty's ships of war " there shall be inserted the words " or any of His Majesty's military aircraft ", and after the word " ship " there shall be inserted the word " aircraft "; and in paragraph (5) thereof after the word " ship " in each place where that word occurs, there shall be inserted the word " aircraft ".</p>
The Prize Courts Act, 1915 (5 & 6 Geo. 5. c. 57).	<p data-bbox="802 775 1343 898">In section one, after the words " ships of war", in each place where those words occur, there shall be inserted the words " or military aircraft ".</p> <p data-bbox="802 920 1343 1113">In section three, in subsection (1) thereof, after the words " or the ship " there shall be inserted the words " or the aircraft "; and in subsection (2) thereof after the word " ship," in each place where that word occurs, there shall be inserted the words " or aircraft ".</p>

## PART II

### PROVISIONS OF NAVAL PRIZE ACT, 1864, INAPPLICABLE IN RELATION TO AIRCRAFT OR GOODS CARRIED THEREIN TAKEN AS PRIZE

Section thirty.

Sections thirty-four and thirty-five.

Sections thirty-seven to thirty-nine.

Sections forty-two to forty-six.

Section forty-eight.