

Reprint
as at 1 January 2004

Naval Prize Act 1864

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Contents

	Page
Title	5
Preamble	5
Preliminary	
1 Short title	5
2 Interpretation of terms	5
I	
Prize Courts	
3 High Court of Admiralty and other Courts to be Prize Courts for purposes of Act	6
<i>High Court of Admiralty</i>	
4 Jurisdiction of High Court of Admiralty [<i>Repealed</i>]	7

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this eprint. See the notes at the end of this eprint for further details.

Source: New Zealand Parliamentary Library, International Documents Collection.

	<i>Appeal; Judicial Committee</i>	
5	Appeal to Queen in Council, in what cases	7
6	Jurisdiction of Judicial Committee in Prize Appeals	7
7	Custody of processes, papers, etc [<i>Repealed</i>]	7
8	Limit of time for appeal [<i>Repealed</i>]	8
	<i>Vice-Admiralty Prize Courts</i>	
9	Enforcement of orders of High Court, etc [<i>Repealed</i>]	8
10	Salaries of Judges of Vice-Admiralty Prize Courts	8
11	Retiring pensions of Judges, as in 22 & 23 Vict c 26	8
12	Returns from Vice-Admiralty Prize Courts	8
	<i>General</i>	
13	General orders for Prize Courts [<i>Repealed</i>]	9
14	Prohibition of officer of Prize Court acting as Proctor, etc	9
15	Prohibition of Proctors being concerned for adverse parties in a cause	9
	II	
	Procedure in Prize Causes	
	<i>Proceedings by Captors</i>	
16	Custody of Prize ship	9
17	Bringing in of ship papers	10
18	Issue of monition [<i>Repealed</i>]	11
19	Examinations on standing interrogatories [<i>Repealed</i>]	11
20	Adjudication by Court [<i>Repealed</i>]	11
21	Further proof [<i>Repealed</i>]	11
22	Custody, etc of ships of war [<i>Repealed</i>]	11
	<i>Claim</i>	
23	Entry of claim; security for costs [<i>Repealed</i>]	11
	<i>Appraisement</i>	
24	Power to Court to direct appraisement [<i>Repealed</i>]	11
	<i>Delivery on Bail</i>	
25	Power to Court to direct delivery to claimant on bail [<i>Repealed</i>]	11
	<i>Sale</i>	
26	Power to Court to order sale [<i>Repealed</i>]	12
27	Sale on condemnation [<i>Repealed</i>]	12
28	How sales to be made [<i>Repealed</i>]	12
29	Payment of proceeds to Paymaster General or official accountant [<i>Repealed</i>]	12

	<i>Small armed ships</i>	
30	One adjudication as to several small ships	12
	<i>Goods</i>	
31	Application of foregoing provisions to Prize Goods	12
	<i>Monition to Captors to proceed</i>	
32	Power to Court to call on captors to proceed to adjudication [Repealed]	13
	<i>Claim on Appeal</i>	
33	Person intervening on appeal to enter claim [Repealed]	13
	III	
	Special cases of capture	
	<i>Land Expeditions</i>	
34	Jurisdiction of Prize Court in case of capture in land expedition	13
	<i>Conjunct Capture with Ally</i>	
35	Jurisdiction of Prize Court in case of expedition with ally	13
	<i>Joint Capture</i>	
36	Restriction on petitions by asserted joint captors [Repealed]	14
	<i>Offences against Law of Prize</i>	
37	In case of offence by captors, Prize to be reserved for Crown	14
	<i>Pre-emption</i>	
38	Purchase by Admiralty for public service of stores on board foreign ships	14
	<i>Capture by Ship other than a Ship of War</i>	
39	Prizes taken by ships other than ships of war to be Droits of Admiralty	15
	IV	
	Prize salvage	
40	Salvage to re-captors of British ship or goods from enemy	15
41	Permission to re-captured ship to proceed on voyage	15

V

Prize Bounty

42	Prize bounty to officers and crew present at engagement with an enemy	16
43	Ascertainment of amount of Prize Bounty by decree of Prize Court	17
44	Payment of Prize Bounty awarded	17

VI

Miscellaneous provisions

Ransom

45	Power for regulating ransom by Order in Council	17
----	---	----

Convoy

46	Punishment of masters of merchant vessels under convoy disobeying orders or deserting convoy	18
----	--	----

Customs Duties and Regulations

47	Prize ships and goods liable to duties and forfeiture	18
48	Regulations of Customs to be observed as to Prize ships and goods	19
48A	Amendment of Act in relation to aircraft	19
49	Power for Treasury to remit Customs Duties in certain cases	20

Perjury

50	Punishment of persons guilty of perjury	20
----	---	----

Limitation of actions, etc

51	Actions against persons executing Act not to be brought without notice, etc	20
----	---	----

Petitions of Right

52	Jurisdiction of High Court of Admiralty on Petitions of Right in certain cases, as in 23 & 24 Vict c 34	21
----	---	----

Orders in Council

53	Power to make orders in Council	22
54	Order in Council to be gazetted, etc	22

Savings

55	Not to affect rights of Crown; effect of treaties, etc	22
----	--	----

Commencement

56	Commencement of Act	23
----	---------------------	----

An Act for regulating Naval Prize of War.

Preamble

Whereas it is expedient to enact permanently, with amendments, such provisions concerning Naval Prize, and matters connected therewith, as have heretofore been usually passed at the beginning of a war:

Preliminary

1 Short title

This Act may be cited as the Naval Prize Act 1864.

2 Interpretation of terms

In this Act—

The term **the Lords of the Admiralty** means the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of Lord High Admiral

The term **the High Court of Admiralty** means the High Court of Admiralty of *England*

The term **any of Her Majesty's ships of war** includes any of Her Majesty's vessels of war, and any hired armed ship or vessel in Her Majesty's service

The term **any of Her Majesty's ships of war** includes any of Her Majesty's vessels of war, and any hired armed ship or vessel in Her Majesty's service

The term **officers and crew** includes Flag Officers, Commanders, and other officers, engineers, seamen, marines, soldiers, airmen and others on board any of Her Majesty's ships of war or any of His Majesty's military aircraft

Officers and crew: amended, as from 1 September 1939, by section 1 Prize Act 1939 (2 & 3 Geo 6, c 65) by substituting the words "airmen and others on board any of Her Majesty's ships of war or any of His Majesty's military aircraft" for the words "and others on board any of Her Majesty's ships of war".

The term **ship** includes vessel and boat, with the tackle, furniture, and apparel of the ship, vessel, or boat

The term **ship papers** includes all books, passes, sea briefs, charter parties, bills of lading, dockets, letters, and other documents and writings delivered up or found on board a captured ship

The term **goods** includes all such things as are by the course of Admiralty and Law of Nations the subject of adjudication as Prize but does not include ships, and does not include aircraft which are not part of the cargo of a ship

Goods: amended, as from 1 September 1939, by section 1 Prize Act 1939 (2 & 3 Geo 6, c 65) by substituting the words “but does not include ships, and does not include aircraft which are not part of the cargo of a ship” for the words “(other than ships)”.

The term **aircraft papers** includes all books, passes, charter parties, bills of lading, bills of lading, manifests, certificates, licences, lists, tickets, notes, letters and other documents and writings delivered up or found on board a captured aircraft

Aircraft papers: inserted, as from 1 September 1939, by section 1 Prize Act 1939 (2 & 3 Geo 6, c 65).

The term **any of His Majesty’s military aircraft** includes any aircraft belonging to His Majesty’s naval, military, or air forces, and any hired armed aircraft in His Majesty’s service.

Any of His Majesty’s military aircraft: inserted, as from 1 September 1939, by section 1 Prize Act 1939 (2 & 3 Geo 6, c 65).

I Prize Courts

3 **High Court of Admiralty and other Courts to be Prize Courts for purposes of Act**

The High Court of Admiralty, and every Court of Admiralty or of Vice-Admiralty, or other Court exercising Admiralty Jurisdiction in Her Majesty’s Dominions, for the time being authorized to take cognizance of and judicially proceed in matters of Prize, shall be a Prize Court within the meaning of this Act. Every such Court, other than the High Court of Admiralty, is comprised in the term **Vice-Admiralty Prize Court**, when hereafter used in this Act.

High Court of Admiralty

4 Jurisdiction of High Court of Admiralty

[Repealed]

Section 4: ceased to have effect as part of the law of New Zealand, on 1 January 2004, by section 49(1) of the Supreme Court Act 2003 (2003 No 53).

Appeal; Judicial Committee

5 Appeal to Queen in Council, in what cases

An appeal shall lie to Her Majesty in Council from any order or decree of a Prize Court, as of right in case of a final decree, and in other cases with the leave of the Court making the order or decree.

Every appeal shall be made in such manner and form and subject to such regulations (including regulations as to fees, costs, charges, and expenses) as may for the time being be directed by order in Council, and in the absence of any such order, or so far as any such order does not extend, then in such manner and form and subject to such regulations as are for the time being prescribed or in force respecting Maritime Causes of Appeal.

Section 5: ceased to have effect as part of the law of New Zealand, on 1 January 2004, by section 49(1) of the Supreme Court Act 2003 (2003 No 53).

6 Jurisdiction of Judicial Committee in Prize Appeals

The Judicial Committee of the Privy Council shall have jurisdiction to hear and report on any such appeal, and may therein exercise all such powers as for the time being appertain to them in respect of appeals from any Court of Admiralty jurisdiction, and all such powers as are under this Act vested in the High Court of Admiralty, and all such powers as were wont to be exercised by the Commissioners of Appeal in Prize causes.

Section 6: ceased to have effect as part of the law of New Zealand, on 1 January 2004, by section 49(1) of the Supreme Court Act 2003 (2003 No 53).

7 Custody of processes, papers, etc

[Repealed]

Section 7 was repealed by section 1 Prize Courts (Procedure) Act 1914.

8 Limit of time for appeal*[Repealed]*

Section 8 was repealed by section 1 Prize Courts (Procedure) Act 1914.

*Vice-Admiralty Prize Courts***9 Enforcement of orders of High Court, etc***[Repealed]*

Section 9: ceased to have effect as part of the law of New Zealand, on 1 January 2004, by section 49(1) of the Supreme Court Act 2003 (2003 No 53).

10 Salaries of Judges of Vice-Admiralty Prize Courts

Her Majesty in Council may grant to the Judge of any Vice-Admiralty Prize Court a salary not exceeding 500 pounds a year, payable out of money provided by Parliament, subject to such regulations as seem meet.

A Judge to whom a salary is so granted shall not be entitled to any further emolument, arising from fees or otherwise, in respect of Prize business transacted in his Court.

An account of all such fees shall be kept by the Registrar of the Court, and the amount thereof shall be carried to and form part of the consolidated fund of the United Kingdom.

11 Retiring pensions of Judges, as in 22 & 23 Vict c 26

In accordance, as far as circumstances admit, with the principles and regulations laid down in the Superannuation Act 1859, Her Majesty in Council may grant to the Judge of any Vice-Admiralty Prize Court an annual or other allowance, to take effect on the termination of his service, and to be payable out of money provided by Parliament.

12 Returns from Vice-Admiralty Prize Courts

The Registrar of every Vice-Admiralty Prize Court shall, on 1 *January* and 1 *July* in every year, make out a return (in such form as the Lords of the Admiralty from time to time direct) of all cases adjudged in the Court since the last half-yearly return, and shall with all convenient speed send the same to the Registrar of the High Court of Admiralty, who shall keep the same in the registry of that Court, and who shall, as soon

as conveniently may be, send a copy of the returns of each half year to the Lords of the Admiralty, who shall lay the same before both Houses of Parliament.

General

13 General orders for Prize Courts

[Repealed]

Section 13: ceased to have effect as part of the law of New Zealand, on 1 January 2004, by section 49(1) of the Supreme Court Act 2003 (2003 No 53).

14 Prohibition of officer of Prize Court acting as Proctor, etc

It shall not be lawful for any Registrar, Marshal, or other officer of any Prize Court, or for the Registrar of Her Majesty in Prize Appeals, directly or indirectly to act or be in any manner concerned as advocate, Proctor, solicitor, or agent, or otherwise, in any Prize cause or appeal, on pain of dismissal or suspension from office, by order of the Court or of the Judicial Committee (as the case may require).

15 Prohibition of Proctors being concerned for adverse parties in a cause

It shall not be lawful for any Proctor or solicitor, or person practising as a Proctor or solicitor, being employed by a party in a Prize cause or appeal, to be employed or concerned, by himself or his partner, or by any other person, directly or indirectly, by or on behalf of any adverse party in that cause or appeal, on pain of exclusion or suspension from practice in Prize matters, by order of the Court or of the Judicial Committee (as the case may require).

II

Procedure in Prize Causes

Proceedings by Captors

16 Custody of Prize ship

Every ship taken as prize, and brought into port within the jurisdiction of a prize court, shall forthwith, and without bulk broken, be delivered up to the marshal of the court.

If there is no such Marshal, then the ship shall be in like manner delivered up to the principal officer of Customs at the port.

Every aircraft taken as prize, and brought to a place within the jurisdiction of a prize court, shall forthwith, and without bulk broken, be delivered up to the Marshal of the Court.

If there is no such Marshal, then the aircraft shall be in like manner delivered up to such person as the court may appoint.

The ship or aircraft shall remain in the custody of the Marshal, or of such officer or person, subject to the orders of the Court.

This section was amended, as from 1 September 1939, by section 1 Prize Act 1939 (2 & 3 Geo 6, c 65) by inserting the words “Every aircraft taken as prize, and brought to a place within the jurisdiction of a prize court, shall forthwith, and without bulk broken, be delivered up to the Marshal of the Court.”, “If there is no such Marshal, then the aircraft shall be in like manner delivered up to such person as the court may appoint.”, “or aircraft”, and “or person”

17 Bringing in of ship papers

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.

The officer in command, or 1 of the chief officers of the capturing ship or capturing aircraft, or some other person who was present at the capture, and saw the ship papers or aircraft papers delivered up or found on board, shall make oath that they are brought in as they were taken, without fraud, addition, subduction, or alteration, or else shall account on oath to the satisfaction of the Court for the absence or altered condition of the ship papers or aircraft papers or any of them.

Where no ship papers or aircraft papers are delivered up or found on board the captured ship or captured aircraft, the officer in command, or one of the chief officers of the capturing ship or capturing aircraft, or some other person who was present at the capture, shall make oath to that effect.

This section was amended, as from 1 September 1939, by section 1 Prize Act 1939 (2 & 3 Geo 6, c 65) by substituting the first paragraph and inserting the words in square brackets in paras 2 and 3.

18 Issue of monition

[Repealed]

This section was repealed by section 1 Prize Courts (Procedure) Act 1914.

19 Examinations on standing interrogatories

[Repealed]

This section was repealed by section 1 Prize Courts (Procedure) Act 1914.

20 Adjudication by Court

[Repealed]

This section was repealed by section 1 Prize Courts (Procedure) Act 1914.

21 Further proof

[Repealed]

This section was repealed by section 1 Prize Courts (Procedure) Act 1914.

22 Custody, etc of ships of war

[Repealed]

This section was repealed by section 1 Prize Courts (Procedure) Act 1914.

Claim

23 Entry of claim; security for costs

[Repealed]

This section was repealed by section 1 Prize Courts (Procedure) Act 1914.

Appraisement

24 Power to Court to direct appraisement

[Repealed]

This section was repealed by section 1 Prize Courts (Procedure) Act 1914.

Delivery on Bail

25 Power to Court to direct delivery to claimant on bail

[Repealed]

This section was repealed by section 1 Prize Courts (Procedure) Act 1914.

*Sale***26 Power to Court to order sale***[Repealed]*

This section was repealed by section 1 Prize Courts (Procedure) Act 1914.

27 Sale on condemnation*[Repealed]*

This section was repealed by section 1 Prize Courts (Procedure) Act 1914.

28 How sales to be made*[Repealed]*

This section was repealed by section 1 Prize Courts (Procedure) Act 1914.

29 Payment of proceeds to Paymaster General or official accountant*[Repealed]*

This section was repealed by section 1 Prize Courts (Procedure) Act 1914.

*Small armed ships***30 One adjudication as to several small ships**

The captors may include in 1 adjudication any number, not exceeding 6, of armed ships not exceeding 100 tons each, taken within 3 months next before institution of proceedings.

*Goods***31 Application of foregoing provisions to Prize Goods**

The foregoing provisions relating to ships and aircraft shall extend and apply, *mutatis mutandis*, to goods taken as Prize on board ship or aircraft; and the Court may direct such goods to be unladen, inventoried, and warehoused.

This section was amended, as from 1 September 1939, by section 1 Prize Act 1939 (2 & 3 Geo 6, c 65) by inserting the words “and aircraft”, and “or aircraft”.

Monition to Captors to proceed

32 Power to Court to call on captors to proceed to adjudication

[Repealed]

This section was repealed by section 1 Prize Courts (Procedure) Act 1914.

Claim on Appeal

33 Person intervening on appeal to enter claim

[Repealed]

This section was repealed by section 1 Prize Courts (Procedure) Act 1914.

III

Special cases of capture

Land Expeditions

34 Jurisdiction of Prize Court in case of capture in land expedition

Where, in an expedition of any of Her Majesty's naval or naval and military forces against a fortress or possession on land, goods belonging to the state of the enemy or to a public trading company of the enemy exercising powers of government are taken in the fortress or possession, or a ship is taken in waters defended by or belonging to the fortress or possession, a Prize Court shall have jurisdiction as to the goods or ship so taken, and any goods taken on board the ship, as in case of Prize.

Conjunct Capture with Ally

35 Jurisdiction of Prize Court in case of expedition with ally

Where any ship or goods is or are taken by any of Her Majesty's naval or naval and military forces while acting in conjunction with any forces of any of Her Majesty's allies, a Prize Court shall have jurisdiction as to the same as in case of Prize, and shall have power, after condemnation, to apportion the due share of the proceeds to Her Majesty's ally, the proportionate amount and the disposition of which share shall be such as may from time to time be agreed between Her Majesty and Her Majesty's ally.

*Joint Capture***36 Restriction on petitions by asserted joint captors***[Repealed]*

This section was repealed by section 1 Prize Courts (Procedure) Act 1914.

*Offences against Law of Prize***37 In case of offence by captors, Prize to be reserved for Crown**

A Prize Court, on proof of any offence against the Law of Nations, or against this Act, or any Act relating to naval discipline, or against any Order in Council or Royal Proclamation, or of any breach of Her Majesty's instructions relating to Prize, or of any act of disobedience to the orders of the Lords of the Admiralty, or to the command of a superior officer, committed by the captors in relation to any ship or goods taken as Prize, or in relation to any person on board any such ship, may, on condemnation, reserve the Prize to Her Majesty's disposal, notwithstanding any grant that may have been made by Her Majesty in favour of captors.

*Pre-emption***38 Purchase by Admiralty for public service of stores on board foreign ships**

Where a ship of a foreign nation passing the seas laden with naval or victualling stores intended to be carried to a port of any enemy of Her Majesty is taken and brought into a port of the United Kingdom, and the purchase for the service of Her Majesty of the stores on board the ship appears to the Lords of the Admiralty expedient without the condemnation thereof in a Prize Court, in that case the Lords of the Admiralty may purchase, on the account or for the service of Her Majesty, all or any of the stores on board the ship; and the Commissioners of Customs may permit the stores purchased to be entered and landed within any port.

Capture by Ship other than a Ship of War

39 Prizes taken by ships other than ships of war to be Droits of Admiralty

Any ship or goods taken as Prize by any of the officers and crew of a ship other than a ship of war of Her Majesty shall, on condemnation, belong to Her Majesty in Her Office of Admiralty.

IV

Prize salvage

40 Salvage to re-captors of British ship or goods from enemy

Where any ship, aircraft, or goods belonging to any of Her Majesty's subjects, after being taken as Prize by the enemy, is or are retaken from the enemy by any of Her Majesty's ships of war or any of His Majesty's military aircraft, the same shall be restored by decree of a Prize Court to the owner, on his paying as Prize salvage one eighth part of the value of the Prize to be decreed and ascertained by the Court, or such sum not exceeding 1 eighth part of the estimated value of the Prize as may be agreed on between the owner and the re-captors, and approved by order of the Court:

provided, that where the re-capture is made under circumstances of special difficulty or danger, the Prize Court may, if it thinks fit, award to the re-captors as Prize salvage a larger part than 1 eighth part, but not exceeding in any case 1 fourth part, of the value of the Prize.

provided also, that where a ship or aircraft after being so taken is set forth or used by any of Her Majesty's enemies as a ship of war or as a military aircraft, this provision for restitution shall not apply, and the ship or aircraft shall be adjudicated on as in other cases of Prize.

This section was amended, as from 1 September 1939, by section 1 Prize Act 1939 (2 & 3 Geo 6, c 65).

41 Permission to re-captured ship to proceed on voyage

Where a ship or aircraft belonging to any of Her Majesty's subjects, after being taken as Prize by the enemy, is retaken from the enemy by any of Her Majesty's ships of war or any

of His Majesty's military aircraft, she may, with the consent of the re-captors, prosecute her voyage, and it shall not be necessary for the re-captors to proceed to adjudication till her return to a port of the United Kingdom.

The master or owner, or his agent, or the pilot or owner of the aircraft or his agent, may, with the consent of the re-captors, unload and dispose of the goods on board the ship or aircraft, as the case may be, before adjudication.

In case the ship does not, within 6 months, return to a port of the United Kingdom or the aircraft does not, within 6 months, return to a place within the United Kingdom, the re-captors may nevertheless institute proceedings against the ship, aircraft, or goods in the High Court of Admiralty, and the Court may thereupon award Prize salvage as aforesaid to the re-captors, and may enforce payment thereof.

This section was amended by section 1 Prize Courts (Procedure) Act 1914 by omitting the words "either by warrant of arrest against the ship or goods, or by monition and attachment against the owner".

This section was amended, as from 1 September 1939, by section 1 Prize Act 1939 (2 & 3 Geo 6, c 65).

V

Prize Bounty

42 Prize bounty to officers and crew present at engagement with an enemy

If, in relation to any war, Her Majesty is pleased to declare, by proclamation or Order in Council, Her intention to grant Prize bounty to the officers and crews of Her ships of war, then such of the officers and crew of any of Her Majesty's ships of war as are actually present at the taking or destroying of any armed ship of any of Her Majesty's enemies shall be entitled to have distributed among them as Prize Bounty a sum calculated at the rate of five pounds for each person on board the enemy's ship at the beginning of the engagement.

This section is inapplicable in relation to aircraft or goods carried therein taken as a prize, pursuant to section 1 Prize Act 1939 (2 & 3 Geo 6, c 65).

43 Ascertainment of amount of Prize Bounty by decree of Prize Court

The number of the persons so on board the enemy's ship shall be proved in a Prize Court, either by the examinations on oath of the survivors of them, or of any 3 or more of the survivors, or if there is no survivor by the papers of the enemy's ship, or by the examinations on oath of 3 or more of the officers and crew of Her Majesty's ship, or by such other evidence as may seem to the Court sufficient in the circumstances.

The Court shall make a decree declaring the title of the officers and crew of Her Majesty's ship to the Prize Bounty, and stating the amount thereof.

The decree shall be subject to appeal as other decrees of the Court.

44 Payment of Prize Bounty awarded

On production of an official copy of the decree the Commissioners of Her Majesty's Treasury shall, out of money provided by Parliament, pay the amount of Prize Bounty decreed, in such manner as any Order in Council may from time to time direct.

VI

Miscellaneous provisions

Ransom

45 Power for regulating ransom by Order in Council

Her Majesty in Council may from time to time, in relation to any war, make such orders as may seem expedient, according to circumstances, for prohibiting or allowing, wholly or in certain cases, or subject to any conditions or regulations or otherwise, as may from time to time seem meet, the ransoming or the entering into any contract or agreement for the ransoming of any ship or goods belonging to any of Her Majesty's subjects, and taken as Prize by any of Her Majesty's enemies. Any contract or agreement entered into, and any bill, bond, or other security, given for ransom of any ship or goods, shall be under the exclusive jurisdiction of the High Court of Admiralty as a Prize Court (subject to appeal to the Judicial Com-

mittee of the Privy Council), and if entered into or given in contravention of any such Order in Council shall be deemed to have been entered into or given for an illegal consideration. If any person ransoms or enters into any contract or agreement for ransoming any ship or goods, in contravention of any such Order in Council, he shall for every such offence be liable to be proceeded against in the High Court of Admiralty at the suit of Her Majesty in Her Office of Admiralty, and on conviction to be fined, in the discretion of the Court, any sum not exceeding 500 pounds.

Convoy

46 Punishment of masters of merchant vessels under convoy disobeying orders or deserting convoy

If the master or other person having the command of any ship of any of Her Majesty's subjects, under the convoy of any of Her Majesty's ships of war, wilfully disobeys any lawful signal, instruction, or command of the commander of the convoy, or without leave deserts the convoy, he shall be liable to be proceeded against in the High Court of Admiralty at the suit of Her Majesty in Her Office of Admiralty, and upon conviction to be fined, in the discretion of the Court, any sum not exceeding 500 pounds, and to suffer imprisonment for such time, not exceeding 1 year, as the Court may adjudge.

Customs Duties and Regulations

47 Prize ships and goods liable to duties and forfeiture

All ships, aircraft, and goods taken as Prize and brought into a port of the United Kingdom or brought to a place within the United Kingdom, as the case may be, shall be liable to and be charged with the same rates and charges and duties of Customs as under any Act relating to the customs may be chargeable on other ships, aircraft, and goods of the like description; and

All goods brought in as Prize which would on the voluntary importation thereof be liable to forfeiture or subject to any restriction under the laws relating to the Customs, shall be deemed to be so liable and subject, unless the Commissioners of Customs see fit to authorize the sale or delivery thereof

for home use or exportation, unconditionally or subject to such conditions and regulations as they direct.

This section was amended, as from 1 September 1939, by section 1 Prize Act 1939 (2 & 3 Geo 6, c 65).

48 Regulations of Customs to be observed as to Prize ships and goods

Where any ship or goods taken as Prize is or are brought into a port of the United Kingdom, the master or other person in charge or command of the ship which has been taken or in which the goods are brought shall, on arrival at such port, bring to at the proper place of discharge, and shall, when required by any officer of Customs, deliver an account in writing under his hand concerning such ship and goods, giving such particulars relating thereto as may be in his power, and shall truly answer all questions concerning such ship or goods asked by any such officer, and in default shall forfeit a sum not exceeding 100 pounds, such forfeiture to be enforced as forfeitures for offences against the laws relating to the Customs are enforced, and every such ship shall be liable to such searches as other ships are liable to, and the officers of the Customs may freely go on board such ship and bring to the Queen's warehouse any goods on board the same, subject, nevertheless, to such regulations in respect of ships of war belonging to Her Majesty as shall from time to time be issued by the Commissioners of Her Majesty's Treasury.

48A Amendment of Act in relation to aircraft

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 100 pounds, such forfeiture to be enforced as forfeitures for offences against the laws relating to the Cus-

toms 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 warehouse any goods on board the same, subject, nevertheless, to such regulations in respect of military aircraft belonging to His Majesty as shall from time to time be issued by the Treasury.

This section was amended, as from 1 September 1939, by section 1 Prize Act 1939 (2 & 3 Geo 6, c 65).

49 Power for Treasury to remit Customs Duties in certain cases

Goods taken as Prize may be sold either for home consumption or for exportation; and if in the former case the proceeds thereof, after payment of Duties of Customs, are insufficient to satisfy the just and reasonable claims thereon, the Commissioners of Her Majesty's Treasury may remit the whole or such part of the said Duties as they see fit.

Perjury

50 Punishment of persons guilty of perjury

If any person wilfully and corruptly swears, declares, or affirms falsely in any Prize cause or appeal, or in any proceeding under this Act, or in respect of any matter required by this Act to be verified on oath, or suborns any other person to do so, he shall be deemed guilty of perjury, or of subornation of perjury (as the case may be), and shall be liable to be punished accordingly.

Limitation of actions, etc

51 Actions against persons executing Act not to be brought without notice, etc

Any action or proceeding shall not lie in any part of Her Majesty's dominions against any person acting under the authority or in the execution or intended execution or in pursuance of this Act for any alleged irregularity or trespass, or other Act or thing done or omitted by him under this Act, unless notice in writing (specifying the cause of the action or

proceeding) is given by the intending plaintiff or prosecutor to the intended defendant 1 month at least before the commencement of the action or proceeding, nor unless the action or proceeding is commenced within 6 months next after the Act or thing complained of is done or omitted, or, in case of a continuation of damage, within 6 months next after the doing of such damage has ceased.

In any such action the defendant may plead generally that the Act or thing complained of was done or omitted by him when acting under the authority or in the execution or intended execution or in pursuance of this Act, and may give all special matter in evidence; and the plaintiff shall not succeed if tender of sufficient amends is made by the defendant before the commencement of the action; and in case no tender has been made, the defendant may, by leave of the Court in which the action is brought, at any time pay into Court such sum of money as he thinks fit, whereupon such proceeding and order shall be had and made in and by the Court as may be had and made on the payment of money into Court in an ordinary action; and if the plaintiff does not succeed in the action, the defendant shall receive such full and reasonable indemnity as to all costs, charges, and expenses incurred in and about the action as may be taxed and allowed by the proper officer, subject to review; and though a verdict is given for the plaintiff in the action he shall not have costs against the defendant, unless the Judge before whom the trial is had certifies his approval of the action.

Any such action or proceeding against any person in Her Majesty's naval service, or in the employment of the Lords of the Admiralty, shall not be brought or instituted elsewhere than in the United Kingdom.

Petitions of Right

52 Jurisdiction of High Court of Admiralty on Petitions of Right in certain cases, as in 23 & 24 Vict c 34

A Petition of Right, under the Petitions of Right Act 1860, may, if the suppliant thinks fit, be intituled in the High Court of Admiralty, in case the subject matter of the petition or any

material part thereof arises out of the exercise of any belligerent right on behalf of the Crown, or would be cognizable in a Prize Court within Her Majesty's dominions if the same were a matter in dispute between private persons.

Any Petition of Right under the last-mentioned Act, whether intituled in the High Court of Admiralty or not, may be prosecuted in that Court, if the Lord Chancellor thinks fit so to direct.

The provisions of this Act relative to appeal, and to the framing and approval of general orders for regulating the procedure and practice of the High Court of Admiralty, shall extend to the case of such Petition of Right intituled or directed to be prosecuted in that Court; and, subject thereto, all the provisions of the Petitions of Right Act, 1860, shall apply, *mutatis mutandis*, in the case of any such Petition of Right; and for the purposes of the present section the terms **Court** and **Judge** in that Act shall respectively be understood to include and to mean the High Court of Admiralty and the Judge thereof, and other terms shall have the respective meanings given to them in that Act.

Orders in Council

53 Power to make orders in Council

Her Majesty in Council may from time to time make such Orders in Council as seem meet for the better execution of this Act.

54 Order in Council to be gazetted, etc

Every Order in Council under this Act shall be published in the London Gazette, and shall be laid before both Houses of Parliament within thirty days after the making thereof, if Parliament is then sitting, and, if not, then within 30 days after the next meeting of Parliament.

Savings

55 Not to affect rights of Crown; effect of treaties, etc

Nothing in this Act shall—

- (a) give to the officers and crew of any of Her Majesty's ships of war or any of His Majesty's military aircraft any right or claim in or to any ship, aircraft, or goods taken as Prize or the proceeds thereof, it being the intent of this Act that such officers and crews shall continue to take only such interest (if any) in the proceeds of Prizes as may be from time to time granted to them by the Crown; or
- (b) affect the operation of any existing treaty or convention with any foreign power; or
- (c) take away or abridge the power of the Crown to enter into any treaty or convention with any foreign power containing any stipulation that may seem meet concerning any matter to which this Act relates; or
- (d) take away, abridge, or control, further or otherwise than as expressly provided by this Act, any right, power, or prerogative of Her Majesty the Queen in right of Her Crown, or in right of Her Office of Admiralty, or any right or power of the Lord High Admiral of the United Kingdom, or of the Commissioners for executing the office of Lord High Admiral; or
- (e) take away, abridge, or control, further or otherwise than as expressly provided by this Act, the jurisdiction or authority of a Prize Court to take cognizance of and judicially proceed upon any capture, seizure, Prize, or reprisal of any ship, aircraft, or goods, and to hear and determine the same and, according to the course of Admiralty and the Law of Nations, to adjudge and condemn any ship, aircraft, or goods, or any other jurisdiction or authority of or exerciseable by a Prize Court.

Paragraphs 1 and 5 were amended, as from 1 September 1939, by section 1 Prize Act 1939 (2 & 3 Geo 6, c 65).

Commencement

56 Commencement of Act

This Act shall commence on the commencement of the Naval Agency and Distribution Act 1864.

Eprint notes**1 *General***

This is an eprint of the Naval Prize Act 1864 (Imp) that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *About this eprint*

This eprint is not an official version of the legislation under section 18 of the Legislation Act 2012.

3 *Amendments incorporated in this eprint*

Supreme Court Act 2003 (2003 No 53): section 49(1)

Prize Act 1939 (2 & 3 Geo 6, c 65): section 1

Prize Courts (Procedure) Act 1914: section 1
