

Seychelles

Courts Act

Admiralty Jurisdiction Rules

Statutory Instrument 60 of 1976

Legislation as at 1 December 2014

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Admiralty Jurisdiction Rules
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Seychelles

Courts Act

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Statutory Instrument 60 of 1976

Commenced on 19 July 1976

[This is the version of this document at 1 December 2014.]

1.

These rules may be cited as the Admiralty Jurisdiction Rules.

2.

Sections 1, 3, 4, 6, 7 and 8 of the Administration of Justice Act, 1956, of the United Kingdom Parliament, shall have force and effect in Seychelles subject to the modification specified in Column II of the Schedule hereto. Sections 2 and 5, Parts II to V and the Schedules of that Act shall be omitted.

Schedule

Column I	Column II
Section 3	<p>In subsections (1), (3), (5), (6) and (7), the words “the High Court, the Liverpool Court of Passage, and any county court” shall be deleted and the words “the Supreme Court of Seychelles” shall be substituted;</p> <p>In subsection (2) the words “the High Court” shall be deleted and the words “the Supreme Court of Seychelles” shall be substituted;</p> <p>In subsection (4) the words “High Court and (where there is such jurisdiction) the admiralty jurisdiction of the Liverpool Court of Passage or any county court” shall be deleted and the words “Supreme Court of Seychelles” shall be substituted;</p> <p>In subsection (8) the words “England and Wales” shall be deleted and the words “Seychelles” shall be substituted.</p>
Section 4	<p>Subsection (1) shall be deleted and the following subsection shall be substituted:#</p> <p style="margin-left: 40px;">"(1) No court in Seychelles shall entertain an action in person to enforce a claim to which this section applies unless#</p> <p style="margin-left: 80px;">(a) the defendant has his habitual residence or a place of business in Seychelles; or</p> <p style="margin-left: 80px;">(b) the cause of action arose within the territorial waters of Seychelles; or</p> <p style="margin-left: 80px;">(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.</p> <p style="margin-left: 40px;">In this subsection “territorial waters of Seychelles” include</p>

	<p>any port, dock or harbour in Seychelles.”</p> <p>In subsection (2) the words “in England and Wales” shall be deleted and the words “in Seychelles shall be substituted, and the words “outside England and Wales” shall be deleted and the words “outside Seychelles” shall be substituted;</p> <p>In subsection (5) the words “the High Court” shall be deleted and the words “the Supreme Court of Seychelles” shall be substituted.</p> <p>Subsection (6) shall be omitted.</p>
Section 6	<p>The words "England and Wales" shall be deleted and word "Seychelles" shall be substituted, and the words "Secretary of State" shall be deleted and the word "Minister" shall be substituted.</p>
Section 7	<p>Subsections (1) and (2) shall be omitted.</p> <p>Subsection (3) shall be deleted and the following subsection shall be substituted#</p> <p>"(3) Nothing in this Part of this Act shall authorise proceedings in rem in respect of any claim against the Government of Seychelles, or the arrest, detention or sale of any ship, aircraft, cargo or other property belonging to the Government of Seychelles."</p> <p>Subsection (4) shall be omitted.</p>

Part I – Admiralty jurisdiction and other provisions as to ships

1. Admiralty jurisdiction of the Supreme Court of Seychelles

- (1) The Admiralty jurisdiction of the Supreme Court of Seychelles shall be as follows, that is to say, jurisdiction to hear and determine any of the following questions or claims#
- (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 done by a ship;
 - (e) any claim for damage received by a ship;
 - (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 of the wrongful act, neglect or default of the owners,

charterers or persons in possession or control of a ship or of the master or crew therefor or of 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 use or hire of a ship;
- (i) any claim in the nature of salvage (including any claim arising by virtue of the application, by or under section fifty-one of the Civil Aviation Act, 1949, of the law relating to salvage to aircraft and their apparel and cargo);
- (j) any claim in the nature of towage in respect of a ship or an aircraft;
- (k) any claim in the nature of pilotage in respect of a ship or an aircraft;
- (l) any claim in respect of goods or materials supplied to a ship for her operation or maintenance;
- (m) any claim in respect of the construction, repair or equipment of a ship or dock charges or dues;
- (n) any claim by a master or member of the crew of a ship for wages and any claim by or in respect of a master or member of the crew of a ship for any money or property which, under any of the provisions of the Merchant Shipping Acts, 1894 to 1954 is recoverable as wages or in the court and in the manner in which wages may be recovered;
- (o) any claim by a master, shipper, charterer or agent in respect of disbursements made on account of a ship;
- (p) any claim arising out of an act which is or is claimed to be a general average act;
- (q) any claim arising out of bottomry;
- (r) 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,

together with any other jurisdiction which either was vested in the High Court of Admiralty in England immediately before the date of the commencement of the Supreme Court of Jurisdiction Act, 1873 (that is to say, the first day of November, eighteen hundred and seventy-five) or is conferred by or under an Act which came into operation on or after that date on the High Court of Justice in England as being a court with Admiralty jurisdiction and any other jurisdiction connected with ships or aircraft vested in the High Court of Jurisdiction in England apart from this section which is for the time being assigned by rules of court to the Probate, Divorce and Admiralty Division.

- (2) The jurisdiction of the Supreme Court of Seychelles under paragraph (b) of subsection (1) of this section 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.
- (3) The reference in paragraph (i) of subsection (1) of this section 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 five hundred and forty-four to five hundred and forty-six of the Merchant Shipping Act, 1894, or any Order in Council made under section fifty-one of the Civil Aviation Act, 1949, are authorised to be made in connection with a ship or an aircraft.

- (4) The preceding provisions of this section apply#
- (a) in relation to all ships or aircraft, whether Seychelles or not and whether registered or not and wherever the residence or domicile of their owners may be;
 - (b) in relation to all claims wheresoever 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 mortgage 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 1954.

[Note: There is no clause 2.]

3. Mode of exercise of Admiralty jurisdiction

- (1) Subject to the provisions of the next following section, the Admiralty jurisdiction of the Supreme Court of Seychelles may in all cases be invoked by an action *in personam*.
- (2) The Admiralty jurisdiction of the Supreme Court of Seychelles may in the cases mentioned in paragraphs (a) to (c) and (r) of subsection (1) of section one of this Act be revoked by an action *in rem* against the ship or property in question.
- (3) In any case in which there is a maritime lien or other charge on any ship, aircraft or other property of the amount claimed, the Admiralty jurisdiction of the Supreme Court of Seychelles may be invoked by an action *in rem* against that ship, aircraft or property.
- (4) In the case of any such claim as is mentioned in paragraphs (d) to (q) of subsection (1) of section one of this Act, being a claim arising in connection with a ship, where the person who would be liable on the claim in an action *in personam*, was, when the cause of action arose, the owner or charterer of, or in possession or in control of, the ship, the Admiralty jurisdiction of the Supreme Court of Seychelles may (whether the claim gives rise to a maritime lien on the ship or not) be invoked by an action *in rem* against#
 - (a) that ship, if at the time when the action is brought it is beneficially owned as respect all the shares therein by that person; or
 - (b) any other ship which, at the time when the action is brought, is beneficially owned as aforesaid.
- (5) In the case of a claim in the nature of towage or pilotage in respect of an aircraft, the Admiralty jurisdiction of the Supreme Court of Seychelles may be invoked by an action *in rem* 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) Notwithstanding anything in the preceding provisions of this section, the Admiralty jurisdiction of the Supreme Court of Seychelles shall not be invoked by an action *in rem* in the case of any such claim as is mentioned in paragraph (n) of subsection (1) of section one of this Act unless the claim relates wholly or partly to wages (including any sum allotted out of wages or adjudged by a superintendent to be due by way of wages).
- (7) Where, in the exercise of its Admiralty jurisdiction, the Supreme Court of Seychelles, 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.
- (8) In determining for the purposes of subsections (4) and (5) of this section 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 Seychelles.

4. **Jurisdiction *in personam* of courts in collision and other similar case**

- (1) No court in Seychelles shall entertain an 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 in Seychelles; or
 - (b) the cause of action arose within the territorial waters of Seychelles; 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 “territorial waters of Seychelles” includes any port, dock or harbour in Seychelles.”

- (2) No court in Seychelles shall entertain an action *in personam* to enforce a claim to which this section applies until any proceedings previously brought by the plaintiff in any court outside Seychelles against the same defendant in respect of the same incident or series of incidents have been discontinued or otherwise come true to an end.
- (3) The preceding provisions of this section shall apply to counter-claims (not being counter-claims in proceedings arising out of the same incident or series of incidents) as they apply to actions *in personam*, but as if the references to the plaintiff and the defendant were respectively references to the plaintiff on the counterclaim and the defendant to the counter-claim.
- (4) The preceding provisions of this section shall not apply to any action or counterclaim if the defendant thereto submits or has agreed to submit to the jurisdiction of the court.
- (5) Subject to the provisions of subsection (2) of this section, the Supreme Court of Seychelles 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 paragraphs (a) to (c) of subsection (1) of this section are 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.
- (6) The claims to which this section applies are claims for damage, loss of life or personal injury arising out of a collision between ships or out of the carrying out of or omission to carry out a manoeuvre in the case of one or more of two or more ships or out of non-compliance, on the part of one or more of two or more ships, with the collision regulations.
- (7) For the avoidance of doubt it is hereby declared that this section applies in relation to the jurisdiction of any court not being Admiralty jurisdiction, as well as in relation to its Admiralty jurisdiction, if any.

[Note: There is no clause 5.]

6. **Courts in Seychelles not to have jurisdiction in cases falling within Rhine Convention.**

No court in Seychelles shall have jurisdiction to determine any claim or question certified by the Minister to be a claim or question which, under the Rhine Navigation Convention, falls to be determined in accordance with the provisions thereof and any proceedings to enforce such a claim which are commenced in any such court shall be set aside.

7. **Savings**

Nothing in this Part of this Act shall authorise proceedings *in rem* in respect of any claim against the Government of Seychelles, or the arrest, detention or sale of any ship, aircraft, cargo or other property belonging to the Government of Seychelles.

8. **Supplemental and transitional provisions**

- (1) In this Part of this act, unless the context otherwise requires,—

“ship” includes any description of vessel used in navigation;

“**goods**” includes baggages;

“**collision regulations**” means regulations under section four hundred and eighteen of the Merchant Shipping Act, 1894, or any such rules as are mentioned in subsection (1) of section four hundred and twenty-one of that Act or any rules made under subsection (2) of the said section four hundred and twenty-one;

“**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;

“**towage**” and “**pilotage**”, in relation to an aircraft, mean towage and pilotage while the aircraft is water-borne;

“**the Rhine Navigation Convention**” means the Convention of the seventh of October, eighteen hundred and sixty-eight, as revised by any subsequent Convention.

- (2) Nothing in any provision in this Part of this Act or in any repeal consequential thereon shall affect proceedings in respect of any cause of action arising before the coming into operation thereof.