

CHAPTER 74

CROWN PROCEEDINGS ACT

• Act • Subsidiary Legislation •

ACT

Amended by

SRO 7 of 1959

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CHAPTER 74 CROWN PROCEEDINGS ACT

An Act relating to the civil liabilities and rights of the Crown and to civil proceedings by and against the Crown; to the civil liabilities of persons other than the Crown in certain cases involving the affairs or property of the Crown, and for connected purposes.

[Amended by SRO 7 of 1959.]

[15th April, 1959.]

PART I

Substantive Law

1. Short title

This Act may be cited as the Crown Proceedings Act.

2. Interpretation

(1) References in this Act to “the provisions of this Act” include, unless the context otherwise requires, a reference to rules of court or magistrates’ court rules made for the purposes of this Act.

(2) In this Act—

“agent”, when used in relation to the Crown, includes an independent contractor employed by the Crown;

“civil proceedings” includes proceedings in the High Court or the magistrate’s court for the recovery of fines or penalties;

“Her Majesty’s aircraft” does not include aircraft belonging to Her Majesty otherwise than in right of Her Government in the United Kingdom;

“Her Majesty’s ships” means ships of which the beneficial interest is vested in Her Majesty or which are registered as Government ships for the purposes of the Merchant Shipping Acts, 1894 to 1970, or which are for the time being demised or subdemised to or in the exclusive possession of the Crown, except that the said expression does not include any ship in which Her Majesty is interested otherwise than in right of Her Government in the United Kingdom unless that ship is for the time being demised or subdemised to Her Majesty in right of Her said Government or in the exclusive possession of Her Majesty in that right;

“magistrates’ court rules” means rules made by the Chief Justice under section 53 of the Magistrates Act, Chapter 177;

“officer”, in relation to the Crown, includes any servant of Her Majesty, in right of Her Government of Grenada and accordingly (but without prejudice to the generality of the foregoing provisions) includes the Governor-General;

“order” includes a judgement, decree, rule, award or declaration;

“prescribed” means prescribed by rules of court or magistrates’ court rules, as the case may be;

“proceedings against the Crown” includes a claim by way of set-off or counterclaim raised in proceedings by the Crown;

“rules of court” means the rules of court made by the Chief Justice and other Judges under the authority of section 17 of the West Indies Associated States Supreme Court Order, 1967, issued under Statutory Instrument No. 223 of 1967;

“ship” has the meaning assigned to it by section 742 of the Merchant Shipping Act, 1894, of the United Kingdom;

“statutory duty” means any duty imposed by or under any written law or other law extending to (or having effect in) Grenada.

(3) Any reference in Parts III or IV to civil proceedings by or against the Crown, or to civil proceedings to which the Crown is a party, shall be construed as including a reference to civil proceedings to which the Attorney-General, or any Ministry or Government department, or any officer of the Crown as such, is a party:

Provided that the Crown shall not for the purposes of Parts III and IV be deemed to be a party to any proceedings by reason only that they are brought by the Attorney-General upon the relation of some other person.

3. Right to sue the Crown

Where any person has a claim against the Crown and, if this Act had not been passed, the claim might have been enforced (subject to the grant of the Governor-General’s fiat) by petition of right, or might have been enforced by a proceeding provided by any statutory provision repealed by this Act then, subject to the provisions of this Act, the claim may be enforced as of right, and without the fiat of the Governor-General, by proceedings taken against the Crown for that purpose in accordance with the provisions of this Act.

4. Liability of the Crown in tort

(1) Subject to the provisions of this Act the Crown shall be subject to all those liabilities in tort to which, if it were a private person of full age and capacity, it would be subject—

- (a) in respect of torts committed by its servants or agents;
- (b) in respect of any breach of those duties which a person owes to his or her employees or agents at common law by reason of being their employer; and
- (c) in respect of any breach of the duties attaching at common law to the ownership, occupation, possession or control of property:

Provided that no proceedings shall lie against the Crown by virtue of paragraph (a) in respect of any act or omission of a servant or agent of the Crown unless the act or omission would apart from the provisions of this Act have given rise to a cause of action in tort against that servant or agent or his or her estate.

(2) Where the Crown is bound by a statutory duty which is binding also upon persons other than the Crown and its officers, then subject to the provisions of this Act the Crown shall, in respect of a failure to comply with that duty, be subject to all those liabilities in

tort (if any) to which it would be so subject if it were a private person of full age and capacity.

(3) Where any functions are conferred or imposed upon an officer of the Crown as such either by any rule of the common law or by statute, and that officer commits a tort while performing or purporting to perform those functions, the liabilities of the Crown in respect of the tort shall be such as they would have been if those functions had been conferred or imposed solely by virtue of instructions lawfully given by the Crown.

(4) Any enactment which negatives or limits the amount of the liability of any Ministry or Government department or officer of the Crown in respect of any tort committed by that Ministry, department or officer shall, in the case of proceedings against the Crown under this section in respect of a tort committed by that Ministry, department or officer, apply in relation to the Crown as it would have applied in relation to that department or officer if the proceedings against the Crown had been proceedings against that Ministry, department or officer.

(5) No proceedings shall lie against the Crown by virtue of this section in respect of anything done or omitted to be done by any person while discharging or purporting to discharge any responsibilities of a judicial nature vested in him or her, or any responsibilities which he or she has in connection with the execution of judicial process.

(6) No proceedings shall lie against the Crown by virtue of this section in respect of any act, neglect or default of any officer of the Crown, unless that officer has been directly or indirectly appointed by the Crown and was at the material time paid in respect of his or her duties as an officer of the Crown wholly out of the Consolidated Fund.

5. Provisions as to industrial property

(1) Where any servant or agent of the Crown infringes a patent or a registered trade mark, and the infringement is committed with the authority of the Crown, then, subject to the provisions of this Act, civil proceedings in respect of the infringement shall lie against the Crown.

(2) Nothing in subsection (1) nor in any other provision of this Act shall affect the rights of any Ministry or Government department under section 33 of the Patents Act, Chapter 227.

(3) Save as expressly provided by this section, no proceedings shall lie against the Crown by virtue of this Act in respect of the infringement of a patent nor in respect of the infringement of a registered trade mark.

6. Application of law as to indemnity, contribution and joint and several tortfeasors

(1) Where the Crown is subject to any liability by virtue of this Part the law relating to indemnity and contribution shall be enforceable by or against the Crown in respect of the liability to which it is so subject as if the Crown were a private person of full age and capacity.

(2) Without prejudice to the effect of subsection (1), section 6 of the Law Reform (Married Women and Tortfeasors) Act, Chapter 166, (which relates to proceedings against, and contribution between, joint and several tortfeasors) shall bind the Crown.

7. Liability in connection with postal packets

(1) Subject as hereinafter provided, no proceedings in tort shall lie against the Crown for anything done or omitted to be done in relation to a postal packet by any person while employed as a servant or agent of the Crown, nor shall any officer of the Crown be subject, except at the suit of the Crown, to any civil liability for any of the matters aforesaid.

(2) Proceedings shall lie against the Crown under this subsection in respect of loss of or damage to a registered inland postal packet, in so far as the loss or damage is due to any wrongful act done or any neglect or default committed by a person employed as a servant or agent of the Crown while performing or purporting to perform his or her functions as such in relation to the receipt, carriage, delivery or other dealing with the packet:

Provided that—

- (a) the amount recoverable in any proceedings under this subsection shall not exceed the market value of the packet in question (excluding the market value of any message or information which it bears) at the time when the cause of action arises;
- (b) the amount recoverable in any such proceedings shall not in any event exceed the maximum amount which, under the Post Office Regulations, is available for compensating the persons aggrieved having regard to the fee paid in respect of the registration of the packet; and
- (c) the Crown shall not be liable under this subsection in respect of any packet unless such conditions as are prescribed by Post Office Regulations in relation to registered inland postal packets have been complied with in relation to that packet.

For the purposes of any proceedings under this subsection, it shall be presumed, until the contrary is shown on behalf of the Crown, that the loss of or damage to the packet was due to some wrongful act done, or some neglect or default committed, by a person employed as a servant or agent of the Crown while performing or purporting to perform his or her functions as such in relation to the receipt, carriage, delivery or other dealing with the packet.

(3) (a) No relief shall be available under subsection (2), except upon a claim by the sender or the addressee of the packet in question, and the sender or addressee of the packet shall be entitled to claim any relief available under the said subsection in respect of the packet, whether or not he or she is the person damnified by the injury complained of, and to give a good discharge in respect of all claims in relation to the packet under the said subsection:

Provided that where the court is satisfied, upon an application by any person who is not the sender or addressee of the packet, that the sender and the addressee are unable or unwilling to enforce their remedies in respect of the packet under the said subsection, the court may, upon such terms as to security for costs and otherwise as the court thinks fit, allow that other person to bring proceedings under the said subsection in the name of the sender or the addressee of the packet.

(b) Reference in this subsection to the sender or addressee of the packet includes a reference to his or her personal representative.

(4) Where by virtue of subsection (3), any person recovers any money or property which, apart from that subsection, would have been recoverable by some other person, the money or property so recovered shall be held on trust for that person.

(5) Post Office Regulations may be made for prescribing the conditions to be observed for the purposes of this section in relation to registered inland postal packets.

(6) In this section—

“inland postal packet” means a postal packet which is posted in Grenada for delivery, at any place in Grenada, to the person to whom it is addressed;

“postal packet” means a letter, post card, reply post card, newspaper, printed packet, pattern or sample packet or parcel, and every packet or parcel transmissible by post;

“sender”, in relation to a postal packet, has such meaning as may be assigned to it by Post Office Regulations.

(7) Reference in this section to a postal packet shall be construed as including a reference to the contents of such a packet.

8. Provisions relating to the armed forces of the Crown

(1) Nothing done or omitted to be done by a member of the armed forces of the Crown while on duty as such shall subject either him or her or the Crown to liability in tort for causing the death of another person, or for causing personal injury to another person, in so far as the death or personal injury is due to anything suffered by that other person while he or she is a member of the armed forces of the Crown if—

- (a) at the time when that thing is suffered by that other person, he or she is either on duty as a member of the armed forces of the Crown or is, though not on duty as such, on any land, premises, ship, aircraft or vehicle for the time being used for purposes of the armed forces of the Crown; and
- (b)
 - (i) where that other person is a member of the armed forces of the Crown in right of its Government in the United Kingdom, the Minister of that Government for the time being responsible for matters relating to social security certifies that his or her suffering that thing has been or will be treated as attributable to service for the purposes of entitlement to an award under the Royal Warrant, Order in Council or Order of Her Majesty relating to the disablement or death of members of the force of which he or she is a member,
 - (ii) where that other person is a member of the armed forces of the Crown in right of its Government in Grenada, the Governor-General certifies that his or her suffering, that thing has been or will be treated as attributable to service for the purposes of entitlement to a gratuity or pension under any enactment relating to the disablement or death of members of the force of which he or she is a member:

Provided that this subsection shall not exempt a member of the said forces from liability in tort in any case in which the Court is satisfied that the act or omission was not connected with the execution of his or her duties as a member of those forces.

(2) No proceedings in tort shall lie against the Crown for death or personal injury due to anything suffered by a member of the armed forces of the Crown if—

- (a) that thing is suffered by him or her in consequence of the nature or condition of any such land, premises, ship, aircraft or vehicle as aforesaid, or in consequence of the nature or condition of any equipment or supplies used for the purposes of those forces; and
- (b)
 - (i) in the case of a member of the armed forces of the Crown in right of its Government in the United Kingdom, the Minister aforesaid of that Government certifies as mentioned in the preceding subsection,
 - (ii) in the case of a member of the armed forces of the Crown in right of its Government in Grenada the Governor-General certifies as mentioned in the preceding subsection,

nor shall any act or omission of an officer of the Crown subject him or her to liability in tort for death or personal injury, in so far as the death or personal injury is due to anything suffered by a member of the armed forces of the Crown being a thing as to which the conditions aforesaid are satisfied.

(3) The Governor-General, if satisfied that it is the fact—

- (a) that a person was or was not on any particular occasion on duty as a member of the armed forces of the Crown in right of its Government in Grenada; or
- (b) that at any particular time, any land, premises, ship, aircraft, vehicle, equipment or supplies was or was not, or were or were not, used for the purposes of the said forces,

may issue a certificate certifying that to be the fact; and any such certificate shall, for the purposes of this section, be conclusive as to the fact which it certifies.

(4) A certificate of the Admiralty or a Secretary of State—

- (a) that a person was or was not on any particular occasion on duty as a member of the armed forces of the Crown in right of its Government in the United Kingdom; or
- (b) that at any particular time, any land, premises, ship, aircraft, vehicle, equipment or supplies was or was not, or were or were not, used for the purposes of the said forces,

shall, for the purposes of this section, be conclusive as to the fact which it certifies.

(5) For the purposes of this section, “member of the armed forces of the Crown” unless the context otherwise requires means a member of the armed forces of the Crown in right of its Government in Grenada (including members of the Police Force serving in time of war or other emergency in pursuance of section 6 of the Police Act, Chapter 244) or in right of its Government in the United Kingdom.

(6) Nothing in this section shall be deemed by implication or otherwise to confer any right of action against the Crown in right of its Government in the United Kingdom.

9. Saving in respect of acts done under prerogative and statutory powers

(1) Nothing in Part I shall extinguish or abridge any powers or authorities which, if this Act had not been passed, would have been exercisable by virtue of the prerogative of the Crown, or any powers or authorities conferred on the Crown by any statute, and, in particular, nothing in Part I shall extinguish or abridge any powers or authorities exercisable by the Crown, whether in time of peace or of war, for the purpose of the defence of the realm or of training, or maintaining the efficiency of, any of the armed forces of the Crown.

(2) Where in any proceedings under this Act it is material to determine whether anything was properly done or omitted to be done in the exercise of the prerogative of the Crown, the Governor-General may, if satisfied that the act or omission was necessary for any such purpose as is mentioned in the last preceding subsection, issue a certificate to the effect that the act or omission was necessary for that purpose, and the certificate shall, in those proceedings, be conclusive as to the matter so certified.

PART II

Jurisdiction and Procedure

10. Civil proceedings in the High Court

Subject to the provisions of this Act, all such civil proceedings by or against the Crown as are mentioned in the Schedule are hereby abolished, and all civil proceedings by or against the Crown in the High Court shall be instituted and proceeded with in accordance with rules of court and not otherwise.

11. Summary applications to the High Court in certain revenue matters

(1) Subject to and in accordance with rules of court, the Crown may apply in a summary manner to the High Court—

- (a) for the furnishing of information required to be furnished by any person under enactments relating to death duties;
- (b) for the delivery of accounts and payment of duty under enactments by persons accountable for or chargeable with such duty and by persons who have taken possession of and administered the estates of deceased persons without obtaining probate or letters of administration.

(2) Subject to and in accordance with rules of court, the Crown may apply in a summary manner to the High Court—

- (a) for the payment of duty under enactments relating to excise duties;
- (b) for the delivery of any accounts required to be delivered, or the furnishing of any information required to be furnished, by enactments relating to excise duties or by any regulations relating to such duties.

12. Civil proceedings in the magistrate's court

(1) Subject to the provisions of this Act and to any enactment limiting the jurisdiction of a magistrate's court (whether by reference to the subject matter of the proceedings to be brought or the amount sought to be recovered in the proceedings or otherwise) any civil proceedings against the Crown may be instituted in a magistrate's court.

(2) Any proceedings by or against the Crown in a magistrate's court shall be instituted and proceeded with in accordance with the magistrate's court rules and not otherwise.

13. Interpleader proceedings

The Crown may obtain relief by way of interpleader proceedings, and may be made a party to such proceedings, in the same manner in which a subject may obtain relief by way of such proceedings or be made a party thereto, and may be made a party to such proceedings notwithstanding that the application for relief is made by a bailiff or other like officer; and all rules of court and magistrates' court rules relating to interpleader proceedings shall, subject to the provisions of this Act, have effect accordingly.

14. Parties to proceedings

(1) Civil proceedings by the Crown may be instituted by the Attorney-General.

(2) Civil proceedings against the Crown shall be instituted against the Attorney-General.

(3) No proceedings instituted in accordance with this Part or by or against the Attorney-General shall abate or be affected by any change in the person holding the office of Attorney-General.

15. Service of documents

All documents required to be served on the Crown for the purpose of or in connection with any civil proceedings by or against the Crown shall be served on the Attorney-General.

16. Removal and transfer of proceedings

(1) If in a case where proceedings are instituted against the Crown in a magistrate's court an application in that behalf is made by the Crown to the High Court, and there is produced to the court a certificate of the Attorney-General to the effect that the proceedings may involve an important question of law, or may be decisive of other cases

arising out of the same matter, or are for other reasons more fit to be tried in the High Court, the proceedings shall be removed into the High Court.

Where any proceedings have been removed into the High Court on the production of such a certificate as aforesaid, and it appears to the Court by whom the proceedings are tried that the removal has occasioned additional expense to the person by whom the proceedings are brought, the Court may take account of the additional expense so occasioned in exercising its power in regard to the award of costs.

(2) Without prejudice to the rights of the Crown under the preceding provisions of this section, all rules of law and enactments relating to the removal or transfer of proceedings from a magistrate's court to the High Court, or the transfer of proceedings from the High Court to a magistrate's court, shall apply in relation to proceedings against the Crown:

Provided that an order for the transfer to a magistrate's court of any proceedings against the Crown in the High Court shall not be made without the consent of the Crown.

17. Nature of relief

(1) In any civil proceedings by or against the Crown the court shall, subject to the provisions of this Act, have power to make all such orders as it has power to make in proceedings between subjects, and otherwise to give such appropriate relief as the case may require:

Provided that—

- (a) where in any proceedings against the Crown any such relief is sought as might in proceedings between subjects be granted by way of injunction or specific performance, the court shall not grant any injunction or make an order for specific performance, but may in lieu thereof make an order declaratory of the rights of the parties; and
- (b) in any proceedings against the Crown for the recovery of land or other property the court shall not make an order for the recovery of the land or the delivery of the property, but may in lieu thereof make an order declaring that the plaintiff is entitled as against the Crown to the land or property or to the possession thereof.

(2) The court shall not in any civil proceedings grant any injunction or make any order against an officer of the Crown if the effect of granting the injunction or making the order would be to give any relief against the Crown which could not have been obtained in proceedings against the Crown.

18. Appeals and stay of execution

Subject to the provisions of this Act, all enactments and rules of court relating to appeals and stay of execution shall, with any necessary modifications, apply to civil proceedings by or against the Crown as they apply to proceedings between subjects.

19. Scope of Part II

(1) Subject to the provisions of this section, any reference in this Part to civil proceedings by the Crown shall be construed as a reference to the following proceedings only—

- (a) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by any such proceedings as are mentioned in paragraph 1 of the Schedule;

- (b) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by an action at the suit of any Ministry or Government department or any officer of the Crown as such;

- (c) all such proceedings as the Crown is entitled to bring by virtue of this Act,

and the expression “civil proceedings by or against the Crown” shall be construed accordingly.

(2) Subject to the provisions of this section, any reference in this Part to civil proceedings against the Crown shall be construed as a reference to the following proceedings only—

- (a) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by any such proceedings as are mentioned in paragraph 2 of the Schedule;

- (b) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by an action against the Attorney-General, any Ministry or Government department, or any officer of the Crown as such; and

- (c) all such proceedings as any person is entitled to bring against the Crown by virtue of this Act,

and the expression “civil proceedings by or against the Crown” shall be construed accordingly.

(3) Notwithstanding anything in the preceding provisions of this section, the provisions of this Part shall not have effect with respect to any of the following proceedings, that is to say—

- (a) proceedings brought by the Attorney-General on the relation of some other person;

- (b) proceedings by or against the Public Trustee;

- (c) proceedings under enactments relating to charitable trusts by or against the Attorney-General.

(4) This Part shall not affect proceedings initiated in any court other than the High Court or a magistrate’s court.

PART III

Judgements and Execution

20. Interest on debts, damages and costs

(1) The provisions of any law relating to the payment of interest on judgement debts in proceedings between subjects shall apply to judgement debts due from or to the Crown.

(2) Where any costs are awarded to or against the Crown in the Supreme Court, interest shall be payable upon those costs unless the court otherwise orders, and any interest so payable shall be at the same rate as that at which interest is payable upon judgement debts due from or to the Crown.

(3) The provisions of any law empowering a Court of Record to award interest on debts and damages shall apply to judgements given in proceedings by and against the Crown.

21. Satisfaction of orders against the Crown

(1) Where in any civil proceedings by or against the Crown, or in connection with any arbitration to which the Crown is a party, any order (including an order for costs) is made by any court in favour of any person against the Crown or against a Ministry or Government department or against an officer of the Crown as such, the proper officer of the court shall, on an application in that behalf made by or on behalf of that person at any time after the expiration of twenty-one days from the date of the order or, in case the order provides for the payment of costs and the costs require to be taxed, at any time after the costs have been taxed, whichever is the later, issue to that person a certificate in the prescribed form containing particulars of the order:

Provided that, if the court so directs, a separate certificate shall be issued with respect to the costs (if any) ordered to be paid to the applicant.

(2) A copy of any certificate issued under this section may be served by the person in whose favour the order is made upon the Attorney-General.

(3) If the order provides for the payment of any money by way of damages or otherwise, or of any costs, the certificate shall state the amount so payable, and the Permanent Secretary (Finance) shall, subject as hereinafter provided, pay to the person entitled or to his or her solicitor the amount appearing by the certificate to be due to him or her together with the interest, if any, lawfully due thereon:

Provided that the court by which any such order as aforesaid is made or any court to which an appeal against the order lies may direct that, pending an appeal or otherwise, payment of the whole of any amount so payable, or any part thereof, shall be suspended, and if the certificate has not been issued may order any such directions to be inserted therein.

(4) Save as aforesaid no execution or attachment or process in the nature thereof shall be issued out of any court for enforcing payment by the Crown of any such money or costs as aforesaid, and no person shall be individually liable under any order for the payment by the Crown, or any Ministry or Government department, or any officer of the Crown as such, of any such money or costs.

22. Execution by the Crown

(1) Subject to the provisions of this Act, any order made in favour of the Crown against any person in any civil proceedings to which the Crown is a party may be enforced in the same manner as an order made in an action between subjects, and not otherwise.

(2) Sections 65 and 66 of the Civil Procedure Act, Chapter 55 (which provide respectively for saving the power of committal in case of small debts and limits the power of committal for non-payment of other debts) shall apply to sums of money payable and debts due to the Crown.

(3) Nothing in this section shall affect any procedure which immediately before the commencement of this Act was available for enforcing an order made in favour of the Crown in proceedings brought by the Crown for the recovery of any fine or penalty, or the forfeiture or condemnation of any goods, or the forfeiture of any ship or any share in a ship.

23. Attachment of monies payable by the Crown

(1) Where any money is payable by the Crown to some person who, under an order of a court, is liable to pay money to any other person, and that other person would, if the money so payable by the Crown were money payable by a subject, be entitled under rules of court to obtain an order for the attachment thereof as a debt due or accruing due, or an order for the appointment of a sequestrator or receiver to receive the money on his or her

behalf, the High Court may, subject to the provisions of this Act and in accordance with rules of court, make an order restraining the first-mentioned person from receiving that money and directing payment thereof to that other person, or to the sequestrator or receiver:

Provided that no such order shall be made in respect of—

- (a) any wages or salary payable to any officer of the Crown as such;
- (b) any money which is subject to the provisions of any enactment prohibiting or restricting assignment or charging or taking in execution; or
- (c) any money payable by the Crown to any person on account of a deposit in the Government Savings Bank.

(2) The provisions of subsection (1) shall, so far as they relate to forms of relief falling within the jurisdiction of a magistrate's court, have effect in relation to magistrates' courts as they have effect in relation to the High Court but with the substitution of a reference to magistrates' court rules for the references in that subsection to rules of court.

PART IV

Miscellaneous and Supplemental

24. Crown may be required to make discovery, etc.

(1) Subject to and in accordance with rules of court and the Civil Procedure Act, Chapter 55—

- (a) in any civil proceedings in the High Court or a magistrate's court to which the Crown is a party, the Crown may be required by the court to make discovery of documents and produce documents for inspection; and
- (b) in any such proceedings as aforesaid, the Crown may be required by the court to answer interrogatories:

Provided that this section shall be without prejudice to any rule of law which authorises or requires the withholding of any document or the refusal to answer any question on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest.

Any order of the court made under the powers conferred by paragraph (b) shall direct by what officer of the Crown the interrogatories are to be answered.

(2) Without prejudice to the proviso to the preceding subsection, any rules made for the purposes of this section shall be such as to secure that the existence of a document will not be disclosed if in the opinion of the Governor-General it would be injurious to the public interest to disclose the existence thereof.

25. Exclusion of proceedings *in rem* against the Crown

(1) Nothing in this Act shall authorise proceedings *in rem* in respect of any claim against the Crown, or the arrest, detention or sale of any of Her Majesty's ships or aircraft, or of any cargo or other property belonging to the Crown, or give to any person any lien on any such ship, aircraft, cargo or other property.

(2) Where proceedings *in rem* have been instituted in the High Court or in a magistrate's court against any such ship, aircraft, cargo or other property, the court may, if satisfied, either on an application by the plaintiff for an order under this subsection or an application by the Crown to set aside the proceedings, that the proceedings were so instituted by the plaintiff in the reasonable belief that the ship, aircraft, cargo or other

property did not belong to the Crown, order that the proceedings shall be treated as if they were in *in personam* duly instituted against the Crown in accordance with the provisions of this Act, or duly instituted against any other person whom the court regards as the proper person to be sued in the circumstances, and that the proceedings shall continue accordingly.

Any such order may be made upon such terms, if any, as the court thinks just; and where the court makes any such order it may make such consequential orders as the court thinks expedient.

26. Limitation of time for bringing proceedings

Nothing in this Act shall prejudice the right of the Crown to rely upon the law relating to the limitation of time for bringing proceedings against public authorities.

27. Application to the Crown of certain statutory provisions

(1) This Act shall not prejudice the right of the Crown to take advantage of the provisions of an Act although not named therein; and it is hereby declared that in any civil proceedings against the Crown the provisions of any Act which could, if the proceedings were between subjects, be relied upon by the defendant as a defence to the proceedings, whether in whole or in part, or otherwise, may, subject to any express provision to the contrary, be so relied upon by the Crown.

(2) Order 69, rule 3, of the rules of court (which empowers the court in certain circumstances to order the arrest of a defendant about to quit Grenada) shall, with any necessary modifications, apply to civil proceedings brought by the Crown.

28. No abatement on demise of Crown

No claim by or against the Crown, and no proceedings for the enforcement of any such claim, shall abate or be affected by the demise of the Crown.

29. Rules of court and magistrates' court rules

(1) Any power to make rules of court or magistrates' court rules shall include power to make rules for the purpose of giving effect to the provisions of this Act, and any such rules may contain provisions to have effect in relation to any proceedings by or against the Crown in substitution for or by way of addition to any of the provisions of the rules applying to proceedings between subjects.

(2) Provision shall be made by rules of court and magistrates' court rules with respect to the following matters—

- (a) for providing for service of process, or notice thereof, in the case of proceedings by the Crown against persons, whether British subjects or not, who are not resident in Grenada;
- (b) for securing that where any civil proceedings are brought against the Crown in accordance with the provisions of this Act the plaintiff shall, before the Crown is required to take any step in the proceedings, provide the Crown with such information as the Crown may reasonably require as to the circumstances in which it is alleged that the liability of the Crown has arisen and as to the Ministry or department and officers of the Crown concerned;
- (c) for providing that in the case of proceedings against the Crown the plaintiff shall not enter judgement against the Crown in default of appearance or pleading without the leave of the court to be obtained on an application of which notice has been given to the Crown;

- (d) for excepting proceedings brought against the Crown from the operation of any rule of court providing for summary judgement without trial, and for enabling any such proceedings to be put in proper cases into any special list which may be kept for the trial of short causes in which leave to defend is given under any such rule of court as aforesaid;
- (e) for enabling evidence to be taken on commission in proceedings by or against the Crown;
- (f) for providing—
 - (i) that a person shall not be entitled to avail himself or herself of any set-off or counterclaim in any proceedings by the Crown for the recovery of taxes, duties or penalties, or to avail himself or herself in proceedings of any other nature by the Crown of any set-off or counterclaim arising out of a right or claim to repayment in respect of any taxes, duties or penalties,
 - (ii) that a person shall not be entitled without the leave of the court to avail himself or herself of any set-off or counterclaim in any proceedings by the Crown if the proceedings are brought in the name of the Attorney-General,
 - (iii) that the Crown shall not be entitled to avail itself of any set-off or counterclaim without the leave of the court.

(3) Provision may be made by rules of court for regulating any appeals to the High Court, whether by way of case stated or otherwise, under enactments relating to the revenue.

30. Financial provisions

- (1) Any expenditure incurred by or on behalf of the Crown by reason of the passing of this Act shall be defrayed out of monies provided by the House of Representatives.
- (2) Any sums payable to the Crown by reason of the passing of this Act shall be paid into the Consolidate Fund.

31. Savings

- (1) Nothing in this Act shall apply to proceedings by or against or authorise proceedings in tort to be brought against Her Majesty in Her private capacity.
- (2) Except as therein otherwise expressly provided, nothing in this Act shall—
 - (a) affect the law relating to prize salvage, or apply to proceedings in causes or matters within the jurisdiction of the High Court as a prize court or to any criminal proceedings;
 - (b) authorise proceedings to be taken against the Crown under or in accordance with this Act in respect of any alleged liability of the Crown arising otherwise than in respect of Her Majesty's Government in Grenada, or affect proceedings against the Crown in respect of any such alleged liability as aforesaid;
 - (c) affect any proceedings by the Crown otherwise than in right of Her Majesty's Government in Grenada;
 - (d) subject the Crown to any greater liabilities in respect of the acts or omissions of any independent contractor employed by the Crown than those to which the Crown would be subject in respect of such acts or omissions if it were a private person;

- (e) affect any rules of evidence or any presumption relating to the extent to which the Crown is bound by any Act;
- (f) affect any right of the Crown to demand a trial at bar or to control or otherwise intervene in proceedings affecting its rights, property or profits; or
- (g) affect any liability imposed on the Public Trustee or on the Consolidated Fund by the Public Trustee Act, Chapter 269,

and, without prejudice to the general effect of the foregoing provisions, Part III shall not apply to the Crown except in right of Her Majesty's Government in Grenada.

(3) A certificate of the Governor-General—

- (a) to the effect that any alleged liability of the Crown arises otherwise than in respect of Her Majesty's Government in Grenada;
- (b) to the effect that any proceedings by the Crown are proceedings otherwise than in right of Her Majesty's Government in Grenada,

shall, for the purposes of this Act, be conclusive as to the matter so certified.

(4) Where any property vests in the Crown by virtue of any rule of law which operates independently of the acts or the intentions of the Crown, the Crown shall not by virtue of this Act be subject to any liabilities in tort by reason only of the property being so vested; but the provisions of this subsection shall be without prejudice to the liabilities of the Crown under this Act in respect of any period after the Crown or any person acting for the Crown has in fact taken possession or control of any such property, or entered into occupation thereof.

(5) This Act shall not operate to limit the discretion of the Court to grant relief by way of *mandamus* in cases in which such relief might have been granted before the commencement of this Act, notwithstanding that by reason of the provisions of this Act some other and further remedy is available.

Schedule

CROWN PROCEEDINGS ACT

Abolishing of Civil Proceedings by and against the Crown

[Section 10.]

1. (1) Latin informations and English informations.
- (2) Writs of *capias ad respondendum*, writs of *subpoena ad respondendum*, and writs of appraisement.
- (3) Writs of *scire facias*.
- (4) Proceedings for the determination of any issue upon a writ of *diem clausit extremum*.
2. (1) Proceedings against Her Majesty by way of petition of right.
- (2) Proceedings against Her Majesty by way of *monstrans de droit*.

CHAPTER 74

CROWN PROCEEDINGS ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
