

THE CROWN PROCEEDINGS ACT

ARRANGEMENT OF SECTIONS

1. Short title.

PART I. *Interpretation*

2. Interpretation.

PART II. *Substantive Law*

3. Liability of the Crown in tort.
4. Provisions as to industrial property.
5. Application of law as to indemnity, joint and several tortfeasors, and contributory negligence.
6. Liability in respect of Crown docks, harbours, etc.
7. Liability in connection with postal articles.
8. Provisions relating to the armed forces.

PART III. *Jurisdiction and Procedure*

9. Right to sue the Crown.

The Supreme Court

10. Civil proceedings in the Supreme Court.

Resident Magistrate's Court

11. Civil procedure in the Resident Magistrate's Court.

General

12. Interpleader.
13. Parties to proceedings.
14. Service of documents.
15. Removal and transfer of proceedings.

CROWN PROCEEDINGS

16. Nature of relief.
17. Appeals and stay of execution.
18. Scope of Part III.

PART IV. *Judgments and Execution*

19. Interest on debts, damages and costs.
20. Satisfaction of orders against the Crown.
21. Execution by the Crown.
22. Attachment of moneys payable by the Crown.

PART V. *Miscellaneous and Supplementary*

23. Discovery.
24. Exclusion of proceedings *in rem* against the Crown.
25. Limitation of actions.
26. Application to the Crown of certain statutory provisions.
27. No abatement on demise of Crown.
28. Abolition of certain writs.

Supplemental

29. Rules of court and Resident Magistrate's Court rules.
30. Pending proceedings.
31. Financial provisions.
32. Repeals, etc.
33. Savings.

SCHEDULES

THE CROWN PROCEEDINGS ACT

Laws
68 of 1958,
12 of 1962
S. 215.

[1st February, 1959.]

1. This Act may be cited as the Crown Proceedings Act.

Short title.

PART I. *Interpretation*

2.—(1) Any reference in this Act to the provisions of this Act shall, unless the context otherwise requires, include a reference to rules of court or Resident Magistrate's Court rules made for the purposes of this Act.

Interpre-
tation.

(2) In this Act, except in so far as the context otherwise requires or it is otherwise expressly provided, the following expressions have the meanings hereby respectively assigned to them, that is to say—

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

“armed forces of the Crown” means the Jamaica Defence Force, and any other military organization under the control of the Crown which the Minister by order declares to be armed forces of the Crown for the purposes of this Act;

12/1962
S. 215.

“civil proceedings” does not include proceedings which in England would be taken on the Crown side of the Queen's Bench Division;

“Crown” means Her Majesty in right of Her Government in the Island;

“officer”, in relation to the Crown, includes any servant of Her Majesty, and accordingly (but without prejudice to the generality of the foregoing provision) includes a Minister of the Crown;

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

“prescribed” means prescribed by rules of court or Resident Magistrate’s 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” includes the Civil Procedure Rules, 2002;

“statutory duty” means any duty imposed by or under any enactment.

Cap. 177.
(1953 Edn.
omitted).

(3) The Crown shall not for the purposes of Parts IV and V 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.

PART II. *Substantive Law*

Liability of the
Crown in tort.

3.—(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 servants 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 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 Government department or officer of the Crown in respect of any tort committed by that department or officer shall, in the case of proceedings against the Crown under this section in respect of a tort committed by that 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 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 any responsibilities which he 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 duties as an officer of the Crown wholly out of the Consolidated Fund of the Island, or any fund certified by the Accountant-General for the purposes of this subsection or was, at the material time, holding an office in respect of which the Accountant-General certifies that the holder thereof would normally be so paid.

Provisions
as to
industrial
property.

4.—(1) Where after the commencement of this Act any servant or agent of the Crown infringes a patent, or infringes a registered trade mark, or infringes any copyright (including any copyright in a design) 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) 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, in respect of the infringement of a registered trade mark or in respect of the infringement of any such copyright as is mentioned in subsection (1).

Application
of law as to
indemnity,
joint and
several tort-
feasors, and
contributory
negligence.

5.—(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), the Law Reform (Tortfeasors) Act (which relates to proceedings against, and contribution between, joint and several tortfeasors) shall bind the Crown.

(3) Without prejudice to the general effect of section 3 the Law Reform (Contributory Negligence) Act (which amends the law relating to contributory negligence) shall bind the Crown.

6.—(1) It is hereby declared that the provisions of section 410 of the Shipping Act, which limit the amount of the liability of the owners of docks, and of harbour or harbour authority, apply for the purpose of limiting the liability of the Crown as the owner of any dock or canal, or as a harbour or harbour authority, and that all the relevant provisions of the Shipping Act have effect in relation to the Crown accordingly.

Liability in respect of Crown docks, harbours, etc.

(2) In this section the expressions “dock”, “harbour”, “owner and harbour authority” have respectively the same meanings as they have for the purposes of section 410 of the Shipping Act.

(3) In this section references to the Crown include references to any Government department and to any officers of the Crown in his capacity as such.

7.—(1) No proceedings in tort shall lie against the Crown for anything done or omitted to be done in relation to a postal article by any person while employed as a servant or agent of the Crown, or for anything done or omitted to be done in relation to a telephonic communication by any person while so employed; nor shall any officer of the crown be subject, except at the suit of the Crown, to any civil liability for the matters aforesaid.

Liability in connection with postal articles.

(2) In this section the expression “postal article” includes any telegram.

(3) Any reference in this section to a postal article shall be construed as including a reference to the contents of such an article.

(4) Nothing in this section shall be deemed to affect any provisions of the Post Office Act or of any regulations made thereunder in relation to the payment of compensation for the loss of or damage to a postal article.

Provisions
relating to the
armed forces.

8.—(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 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 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 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 the purposes of the armed forces of the Crown; and
- (b) the Minister certifies that his suffering that thing has been or will be treated as attributable to service for the purposes of entitlement to an award under any law for the time being relating to the disablement or death of members of the force of which he 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 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 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) the Minister certifies as mentioned in subsection (1),

nor shall any act or omission of an officer of the Crown subject him 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 Minister, 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; 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.

PART III. *Jurisdiction and Procedure*

9.—(1) Where any person has a claim against the Crown after the commencement of this Act, and, if this Act had not been passed, the claim might have been enforced, whether subject to the grant of a fiat or not, by a proceed-

Right to
sue the
Crown.

ing provided by the common law or 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 grant of a fiat, by proceedings taken against the Crown for that purpose in accordance with the provisions of this Act.

Mode of trial.

(2) In any civil proceedings in tort in the Supreme Court to which the Crown is or becomes a party the procedure and practice for the time being of the Supreme Court of Judicature in England shall, in relation to the mode of trial, be followed and the rules of court shall for this purpose be adapted and modified accordingly.

(3) In any civil proceedings in tort in a Resident Magistrate's Court to which the Crown is or becomes a party the procedure and practice for the time being of the County Courts in England shall, in relation to the mode of trial, be followed and the Resident Magistrate's Court rules shall for this purpose be adapted and modified accordingly.

The Supreme Court

Civil proceedings in the Supreme Court. First Schedule.

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

Resident Magistrate's Court

Civil procedure in the Resident Magistrate's Court.

11.—(1) Subject to the provisions of this Act, and to any enactment limiting the jurisdiction of a Resident 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 by or against the Crown may be instituted in a Resident Magistrate's Court.

(2) Subject to the provisions of subsection (3) of section 9 any proceedings by or against the Crown in a Resident Magistrate's Court shall be instituted and proceeded with in accordance with Resident Magistrate's Court rules and not otherwise.

General

12. 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 Resident Magistrate's Court rules relating to interpleader proceedings shall, subject to the provisions of this Act, have effect accordingly.

Inter-
pleader.

13.—(1) Civil proceedings by the Crown shall be instituted by the Attorney-General.

Parties
to pro-
ceedings.

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

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

14. 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 prescribed officer.

Service of
documents.

Removal
and
transfer of
proceedings.

15.—(1) If in a case where proceedings are instituted against the Crown in a Resident Magistrate's Court an application in that behalf is made by the Crown to the Supreme 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 Supreme Court, the proceedings shall be removed into the Supreme Court notwithstanding the provisions of section 130 of the Judicature (Resident Magistrate's) Act.

Where any proceedings have been removed into the Supreme 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 powers 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 Resident Magistrate's Court to the Supreme Court or the transfer of proceedings from the Supreme Court to a Resident Magistrate's Court, shall apply in relation to proceedings by or against the Crown:

Provided that an order for the transfer to a Resident Magistrate's Court of any proceedings by or against the Crown in the Supreme Court shall not be made without the consent of the Crown.

Nature of
relief.

16.—(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 an 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 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.

17. Subject to the provisions of this Act, all enactments, rules of court and Resident Magistrate's Court rules 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.

Appeals
and
stay of
execution.

18.—(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—

Scope of
Part III.

First
Schedule.

(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 First 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 the Attorney-General or any officer of the Crown as such or by proceedings taken by virtue of any of the enactments set out in the Second Schedule;

Second
Schedule.

(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 First 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 or any officer of the Crown as such or by proceedings taken by virtue

of any of the enactments set out in the Second Schedule; 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 Registrar of Titles or any officer of that Registry;
- (c) proceedings by or against the Administrator-General;
- (d) proceedings by or against the Trustee in Bankruptcy.

PART IV. *Judgments and Execution*

19.—(1) Section 51 of the Judicature (Supreme Court) Act and section 210 of the Judicature (Resident Magistrates) Act (which provide that judgment debts shall carry interest) shall apply to judgment debts due from or to the Crown.

Interest on debts, damages and costs.

(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 judgment debts due from or to the Crown.

(3) The Interest (Allowance by Jury) Act (which empowers a jury to award interest on debts and damages)

and section 3 of the Law Reform (Miscellaneous Provisions) Act (which empowers Courts of Record to award interest on debts and damages), shall apply to judgments given in proceedings by and against the Crown.

(4) This section shall apply both in relation to proceedings pending at the commencement of this Act and in relation to proceedings instituted thereafter.

Satisfaction
of orders
against the
Crown.

20.—(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 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 person for the time being named in the record as the solicitor, or as the person acting as solicitor, for the Crown or for the officer concerned.

(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 appropriate Government department shall, subject as here-

inafter provided, pay to the person entitled or to his solicitor the amount appearing by the certificate to be due to him 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 officer of the Crown as such, of any such money or costs.

(5) This section shall apply both in relation to proceedings pending at the commencement of this Act and in relation to proceedings instituted thereafter.

21.—(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.

Execution
by the
Crown.

This subsection shall apply both in relation to proceedings pending at the commencement of this Act and in relation to proceedings instituted thereafter.

(2) Sections 2 and 3 of the Debtors Act (which provide respectively for the abolition of imprisonment for debt, and for saving the power of committal in case of

small debts) shall apply to sums of money payable and debts due to the Crown.

Attachment
of moneys
payable by
the Crown.

22.—(1) Where any money is payable by the Crown to some person who, under any order of any Court, is liable to pay any 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 behalf, the Supreme 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 Workers Savings and Loan Bank.

(2) The provisions of subsection (1) shall, so far as they relate to forms of relief falling within the jurisdiction of a Resident Magistrate's Court, have effect in relation to Resident Magistrates' Courts as they have effect in relation to the Supreme Court, but with the substitution of a reference to Resident Magistrate's Court rules for any reference in the said subsection to rules of court.

PART V. *Miscellaneous and Supplementary*

23.—(1) Subject to and in accordance with rules of court and Resident Magistrate's Court rules— Discovery.

- (a) in any civil proceedings in the Supreme Court or a Resident 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 authorizes 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.

An 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 subsection (1), 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 a Minister of the Crown, it would be injurious to the public interest to disclose the existence thereof.

24.—(1) Nothing in this Act shall authorize proceedings *in rem* in respect of any claim against the Crown, or the arrest, detention or sale of any vessel, cargo or other property belonging to the Crown, or give to any person any lien on any such vessel, cargo or other property. Exclusion
of
proceedings
in rem
against the
Crown.

(2) Where proceedings *in rem* have been instituted in the Supreme Court or in Resident Magistrate's Court,

against any such vessel, 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 vessel, cargo or other property did not belong to the Crown, order that proceedings shall be treated as if they were *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.

Limitation
of actions.

25. 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.

Application
to the
Crown
of certain
statutory
provisions.

26.—(1) This Act shall not prejudice the right of the Crown to take advantage of the provisions of a statute although not named therein; and it is hereby declared that in any civil proceedings against the Crown the provisions of any enactment 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) Section 4 of the Debtors Act (which empowers the court in certain circumstances to order the arrest of a defendant about to quit the Island) shall, with any necessary modifications, apply to civil proceedings by the Crown.

27. 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.

No abatement on demise of Crown.

28. No writ of extent or of *diem clausit extremum* shall issue after the commencement of this Act.

Abolition of certain writs.

Supplemental

29.—(1) Any power to make rules of court or Resident Magistrate's 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.

Rules of court and Resident Magistrate's Court rules.

(2) Provision shall be made by rules of court and Resident Magistrate's 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 Commonwealth citizens or not, who are not resident in the Island;
- (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 departments and officers of the Crown concerned;
- (c) for providing that in the case of proceedings against the Crown the plaintiff shall not enter

judgment 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 judgment 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 authorizing the Crown to deliver interrogatories without the leave of a Court in any proceedings for the enforcement of any right for the enforcement of which proceedings by way of English information might have been taken if this Act had not been passed, so, however, that the Crown shall not be entitled to deliver any third or subsequent interrogatories without the leave of the Court;
- (f) for enabling evidence to be taken on commission in proceedings by or against the Crown;
- (g) for providing—
 - (i) that a person shall not be entitled to avail himself of any set-off or counterclaim in any proceedings by the Crown without leave of the Court;
 - (ii) that the Crown shall not be entitled to avail itself of any set-off or counterclaim without the leave of the Court;
- (h) for providing for the mode of trial where the Crown becomes a party to any civil proceedings in tort after such proceedings have commenced.

30. Save as otherwise expressly provided, the provisions of this Act shall not affect proceedings by or against the Crown which have been instituted before the commencement of this Act; and for the purposes of this section proceedings against the Crown shall be deemed to have been so instituted if a statement of complaint with respect to the matter in question has been left with the Registrar of the Supreme Court to be laid before the Governor before the commencement of this Act.

Pending
proceedings.

31.—(1) Any expenditure incurred by or on behalf of the Crown by reason of the passing of this Act shall be defrayed out of money voted by Parliament.

Financial
provisions.

(2) Any sums payable to the Crown shall be paid into the Consolidated Fund.

32.—(1) The enactments set out in the Second Schedule are hereby repealed to the extent specified in the third column of that Schedule.

Repeals,
etc.
Second
Schedule.

(2) The repeals effected by subsection (1) of this section shall be operative only in so far as the repealed enactment affects proceedings by or against the Crown or any officer of the Crown as defined in this Act.

33.—(1) Except as therein otherwise expressly provided nothing in this Act shall—

Savings.

- (a) authorize 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 the Island, or affect proceedings against the Crown in respect of any such alleged liability as aforesaid; or

- (b) affect any proceedings by the Crown otherwise than in right of Her Majesty's Government in the Island; or
 - (c) 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; or
 - (d) affect any rules of evidence or any presumption relating to the extent to which the Crown is bound by any enactment; or
 - (e) 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
 - (f) affect any proceedings for the recovery of any taxes within the meaning of the Tax Collection Act or of any fines or penalties, or for the forfeiture and condemnation of any goods,
- and without prejudice to the general effect of the foregoing provisions, Part IV shall not apply to the Crown except in right of Her Majesty's Government in the Island.

(2) A certificate of the Minister responsible for home affairs—

- (a) to the effect that any alleged liability of the Crown arises otherwise than in respect of Her Majesty's Government in the Island;
 - (b) to the effect that any proceedings by the Crown are proceedings otherwise than in right of Her Majesty's Government in the Island,
- shall, for the purposes of this Act, be conclusive as to the matter so certified.

(3) 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.

(4) 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.

CROWN PROCEEDINGS

FIRST SCHEDULE (Sections 10, 18)

Proceedings Abolished by this Act

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 extent or of *diem clausit extremum*.
2. (1) Proceedings by way of petition of right.
 - (2) Proceedings by way of *monstrans de droit*.

SECOND SCHEDULE (Sections 18, 32)

Enactments Repealed

Statute	Short Title	Section
Cap. 207 (1938 Edtn. omitted.)	Kingston Public Wharf and Public Bonding Warehouse Law	Section 2.
Cap. 177 (1953 Edtn. omitted.)	Judicature (Civil Procedure Code) Law	Sections 656-662.
	Judicature (Resident Magistrates) Act	Proviso to section 188.
	Main Roads Act	Section 30, section 32 delete the words appearing after the word "Law".
	Parishes Water Supply Act	Section 62, section 63 delete the words appearing after the word "Law" where it appears for the first time.
	Telegraph Act	Section 7, section 17 delete the words appearing after the word "business".