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## C R O W N P R O C E E D I N G S O R D I N A N C E 1 9 6 6

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*This is a consolidated version of this legislation i.e. it incorporates all amendments made since the legislation was enacted as set out in the table below. It has been produced by the SBAA as an aid to transparency and easier access to SBA law. However, it is not the official version of SBA legislation and, although every effort has been made to check the document, its accuracy cannot be guaranteed. The official version of legislation is published in the SBA Gazette.*

| <b>Legislation incorporated in this Consolidation</b> | <b>Ordinance</b> | <b>Date in Force</b> |
|---|------------------|----------------------|
| Crown Proceedings Ordinance 1966                      | 9/66             | 09/06/1966           |
| Crown Proceedings (Armed Forces) Ordinance 1988       | 15/88            | 20/07/1988           |
| Crown Proceedings (Amendment) Ordinance 2005          | 23/05            | 13/09/2005           |

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**SCHEDULE 1 — Proceedings abolished by this Ordinance**

An Ordinance to amend the law relating to the Civil Liabilities and Rights of the Crown and to Civil Proceedings by and against the Crown; to amend the law relating to the Civil Liabilities of persons other than the Crown in certain cases involving the affairs of property of the Crown; and for purposes incidental to and connected with the matters aforesaid.

## PART 1

### Preliminary

#### Short Title

1. This Ordinance may be cited as the Crown Proceedings Ordinance 1966.

#### Interpretation

- 2.—(1) In this Ordinance, unless the context otherwise requires—
  - “agent” when used in relation to the Crown, includes an independent contractor employed by the Crown;
  - “Chief Officer” means the Chief Officer, Sovereign Base Areas;
  - “civil proceedings” includes proceedings in either Court for the recovery of fines or penalties;
  - “Crown” means *except where Part VI applies*(a) Her Majesty in right of Her Administration in the Areas;
  - “Officer” in relation to the Crown, includes the Administration, and any servant of Her Majesty in right of Her Administration in the Areas;
  - “Order” includes a judgement, decree, rule, award or declaration;
  - “Proceedings against the Crown” includes a claim by way of set-off or counterclaim raised in proceedings by the Crown;
  - “statutory duty” means any duty imposed by or under any written law.

(2) Any reference in this Ordinance to the provisions of this Ordinance shall, unless the context otherwise requires, include a reference to rules of court made for the purposes of this Ordinance.

(3) Any reference in Part IV and V of this Ordinance to civil proceedings by or against the Crown, or to civil proceedings to which the Crown is party, shall be construed to include a reference to civil proceedings to which the Legal Adviser or any officer of the Crown as such is a party:

Provided that the Crown shall not, for the purpose of Part IV or V of this Ordinance, be deemed to be a party to any proceedings by reason only that they are brought by the Legal Adviser upon the relation of some other person.

(4) Any reference in this Ordinance to the armed forces of the Crown shall be construed as including a reference to the following forces—

- (a) the Women’s Royal Naval Service;
- (b) the Queen Alexandra’s Royal Naval Nursing Service; and

any other Organisation established under the control of the Defence Council.

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(a) Text inserted by Ordinance 23/2005 – came into force on 13 September 2005

## PART 2

### Substantive Law

#### **Right to sue the Crown**

3. Where any person has a claim against the Crown after the commencement of this Ordinance and, if this Ordinance had not been enacted, the claim might have been enforced, subject to the grant of the written consent of the Administrator, in accordance with the provisions of subsection (1) and (2) of Section 55 of the Courts Ordinance, 1960 (a), or might have been enforced by a proceeding provided by any statutory provision repealed by this Ordinance, then, subject to the provisions of this Ordinance, the claim may be enforced as of right and without the consent of the Administrator, by proceedings taken against the Crown for that purpose in accordance with the provisions of this Ordinance.

#### **Liability of the Crown in tort**

4.—(1) Subject to the provisions of this Ordinance, 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 ownership, occupation, possession or control of property:

Provided that no proceedings shall lie against the Crown by virtue of paragraph (a) of this subsection 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 Ordinance, 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 upon person other than the Crown and its officers, then subject to the provisions of this Ordinance, 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 any written law, 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 written law which negatives or limits the amount of the liability of any officer of the Crown in respect of any tort committed by the officer shall, in the case of proceedings against the Crown under this section in respect of a tort committed by that officer, apply in relation to the Crown as it would have applied in relation to that officer if the proceedings against the Crown had been proceedings against that 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 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 United Kingdom, moneys provided by the Parliament of the United Kingdom or the Areas certified by the Fiscal Officer for the purposes of

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(a) Ordinance 3/1960 as amended

this subsection, or was at the material time holding an office in respect of which the Fiscal Officer certifies that the holder thereof would normally so be paid.

### **Provisions as to industrial property**

5.—(1) Where, after the commencement of this Ordinance, 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 Ordinance, 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 Ordinance 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) of this section.

### **Application of law as to indemnity and contribution**

6. Where the Crown is subject to any liability by virtue of this Part of this Ordinance, 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.

### **~~Provisions relating to the armed forces of the Crown (a)~~**

~~7.—(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) (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 Pensions and National Insurance 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 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 is a member;~~
- ~~(ii) where that other person is a member of the armed forces of the Crown in right of its Government in any British possession other than the Areas, the Chief Officer certifies that on information supplied to him by the Crown in right of its Government in such British possession, the suffering of that thing by such other person will be treated as attributable to service for the purpose of entitlement to a gratuity or pension under any written law 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—~~

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(a) Repealed by Ordinance 15/1988 – came into force on 20 July 1988 (also provides for the revival of the section in certain circumstances)

- ~~(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) (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 of Pensions and National Insurance certifies as mentioned in sub-paragraph (i) of paragraph (b) of subsection (1) of this section;~~
- ~~(ii) in the case of a member of the armed forces of the Crown in right of its Government in any British possession other than the Areas, the Chief officer certifies as mentioned in sub-paragraph (ii) of paragraph (b) of subsection (1) of this section;~~

~~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 Chief Officer, 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 any British possession other than the Areas; 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 purpose 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 a Secretary of State—~~

- ~~(a) that a person was or was not on any particular occasion on duty as a member of that 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 purpose of this section, be conclusive as to the fact which it certifies.~~

~~(5) For the purpose 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 a British possession other than the Areas 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 or against the Crown in right of its Government in any British possession other than the Areas.~~

[Sections 2 to 4 of the Crown Proceedings (Armed Forces) Ordinance 1988 (15/1988) is highlighted in green text below for reference:

(2) For the purposes of the application of any provision of this Ordinance in relation to subsection (2) of Section 7 of the Crown Proceedings Ordinance, 1966 references in this Ordinance to anything suffered by any person in consequence of an act or omission committed before a particular date shall include references to anything which—

- (a) would not, apart from this subsection, be regarded as suffered in consequence of an act or omission, but
- (b) is suffered in consequence of the nature or condition at a time before that date of any land, premises, ship, aircraft, hovercraft, or vehicle or of any equipment or supplies.

2. Subject to Section 3 below, Section 7 of the Crown Proceedings Ordinance, 1966 (exclusions from liability in tort in cases involving the Armed Forces) shall cease to have effect except in relation to anything suffered by a person in consequence of an act or omission committed before the enactment of this Ordinance.

### **Revival of Section 7**

**3.—(1)** Subject to the following provisions of this Section, the Administrator may at any time after the coming into force of Section 2 above, by Order to be published in the Gazette—

- (a) revive the effect of Section 7 of the Crown Proceedings Ordinance, 1966 either for all purposes or for such purposes as may be described in the Order; or
- (b) where that Section has effect for the time being in pursuance of an Order made by virtue of paragraph (a) above, provide for that Section to cease to have effect either for all of the purposes for which it so has effect or for such of them as may be so described.

(2) The Administrator shall not make an Order reviving the effect of the said Section 7 for any purposes unless it appears by him necessary or expedient to do so—

- (a) by reason of any imminent danger within the Sovereign Base Areas or of any great emergency that has arisen; or
- (b) for the purposes of any warlike operations in any part of the world outside the Sovereign Base Areas or of any other operations which are, or are to be carried out in connection with the warlike activity of any persons in any such part of the world.

(3) Subject to subsection (4) below, an Order under this Section describing purposes for which the effect of the said Section 7 is to be revived, or for which that Section is to cease to have effect, may describe those purposes by reference to any matter whatever and may make different provision for different cases, circumstances or persons.

(4) Nothing in any Order under this Section shall revive the effect of the said Section 7, or provide for that Section to cease to have effect, in relation to anything suffered by a person in consequence of an act or omission committed before the date on which the Order comes into force.

### **Consequential adaptations of existing enactments etc. Ordinance 9/66**

**4.—(1)** Except in so far as an Order under Section 3 above otherwise provides, any reference to Section 7 of the Crown Proceedings Ordinance, 1966 in any Ordinance enacted or made before the enactment of this Ordinance shall be construed as a reference to that Section as it from time to time has effect by virtue of this Ordinance.

(2) Subsection (1) above shall apply, as it applies to express references to the said Section 7—

- (a) to the references to that Section which are comprised in the references in the said Ordinance of 1966 or to the provisions of that Ordinance itself; and
- (b) to any other references to the said Section 7 which are comprised in reference to that Ordinance, in references to enactments generally or in references to any description of enactments.

(3) In this Section “Ordinance” has the same meaning as in the Laws (Adaptation and Interpretation) (Consolidation and Extension) Ordinance, 1968.(a)"]

### **Saving in respect of acts done under prerogative and statutory powers**

**8.—(1)** Nothing in this Part of this Ordinance shall extinguish or abridge any powers or authorities which, if this Ordinance had not been enacted, would have been exercisable by virtue of the prerogative of the Crown, or any powers or authorities conferred on the Crown by any written law, and in particular, nothing in this Part 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

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(a) Ordinance 5/1968

defence of the Areas or of training, or maintaining the efficiency of, any of the armed forces of the Crown.

(2) Where in any proceedings under this Ordinance 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 Administrator may, if satisfied that the act or omission was necessary for any such purpose as is mentioned in subsection (1) of this section, 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 matters so certified.

## PART 3

### Jurisdiction and Procedure

#### Civil proceedings in the Judge's Court

9.—(1) Subject to the provisions of this Ordinance and Section 19 of the Courts Ordinance, 1960 all civil proceedings by or against the Crown mentioned in the Schedule to this Ordinance are hereby abolished, and all civil proceedings by or against the Crown shall be instituted in the Judge's Court and proceeded with in accordance with rules of court and not otherwise.

(2) In this section the expression "rules of court" means, in relation to any claim against the Crown in the Judge's Court which falls within the jurisdiction of that court as a prize court, rules of court made under section 3 of the Prize Courts Act, 1894.

#### Interpleader

10. 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 sheriff or other like officer; and all rules of court relating to interpleader proceedings shall, subject to the provisions of this Ordinance, have effect accordingly.

#### Parties to proceedings

11.—(1) Subject to the provisions of any other written law, civil proceedings by or against the Crown shall be instituted by or against the Legal Adviser, as the case may be.

(2) No proceedings instituted in accordance with this Part of this Ordinance by or against the Legal Adviser shall abated or be affected by any change in the person holding the office of Legal Adviser.

#### Service of documents

12. 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 in accordance with the provisions of this Ordinance shall be served on the Legal Adviser.

#### Nature of relief

13.—(1) In any civil proceedings by or against the Crown the Court shall, subject to the provisions of this Ordinance, 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 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 any 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.

### **Cost in civil proceedings to which the Crown is a party**

**14.** In any civil proceedings or arbitration to which the Crown is a party, the costs of and incidental to the proceedings shall be awarded in the same manner and on the same principles as in cases between subjects, and the Court or arbitrator shall have power to make an order for the payment of costs by or to the Crown accordingly:

Provided that—

- (a) in the case of proceedings to which by reason of any written law or otherwise the Legal Adviser or any officer of the Crown as such is authorised to be made a party, the Court or arbitrator shall have regard to the nature of the proceedings and the character and circumstances in which the Legal Adviser or officer of the Crown appears, and may in the exercise of its or his discretion order any other party to the proceedings to pay the cost of the Legal Adviser or officer, whatever may be the result of the proceedings; and
- (b) nothing in this section shall effect the power of the Court or arbitrator to order, or any written law providing for, the payment of costs out of any particular fund or property, or any written law expressly relieving any officer of the Crown of the liability to pay costs.

### **Appeals and stay of execution**

**15.** Subject to the provisions of this Ordinance, any written law 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.

### **Scope of Part 3**

**16.—(1)** Subject to the provisions of this section, any reference in this Part of this Ordinance 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 Ordinance had not been enacted, might have been enforced or vindicated or obtained by any such proceedings as are mentioned in paragraph 1 of the Schedule to this Ordinance;
- (b) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Ordinance had not been enacted, might have been enforced or vindicated or obtained by an action at the suit of the Legal Adviser or any officer of the Crown as such;
- (c) all such proceedings as the Crown is entitled to bring by virtue of this Ordinance,

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 of this Ordinance 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 Ordinance had not been enacted, might have been enforced or vindicated or obtained by any such proceedings as are mentioned in paragraph 2 of the Schedule to this Ordinance;
- (b) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Ordinance had not been enacted, might have been enforced or vindicated or obtained by an action against the Legal Adviser 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 Ordinance, 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 of this Ordinance shall not have effect with respect to any of the following proceedings, that is to say—

- (a) proceedings brought by the Legal Adviser on the relation of some other person;
- (b) proceedings relating to the charitable trusts by or against the Legal Adviser;
- (c) proceedings by or against any officer for the time lawfully exercising in the Areas the equivalent functions of the Director of Lands and Surveys of the Colony.

## PART 4

### Judgements and Execution

#### **Interest on debts, damages and costs**

**17.—**(1) Section 11 of the Civil Procedure Ordinance (which provides that a judgement debt shall carry interest) shall apply to judgement debts due from or to the Crown.

(2) The provisions of any written law empowering a Court to award interest on costs shall apply to orders made in any proceedings by or against the Crown.

(3) The provisions of any written law empowering a Court to award interest on debts and damages shall apply to orders made in any proceedings by or against the Crown.

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

#### **Satisfaction of orders against the Crown**

**18.—**(1) Where in any civil proceedings by or against the Crown, or in proceedings in connection with any arbitration in 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 Registrar 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 Legal Adviser.

(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 Fiscal Officer shall, subject as

hereinafter provided, cause to be paid to the person entitled or to his advocate the amount appearing by the certificate to be due to him together with 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 direction 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 Ordinance and in relation to proceedings instituted thereafter.

### **Execution by the Crown**

**19.**—(1) Subject to the provisions of this Ordinance, 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) Subsection (1) of this section shall apply both in relation to proceedings pending at the commencement of this Ordinance and in relation to proceedings instituted thereafter.

(3) Nothing in this section shall affect any procedure which immediately before the commencement of this Ordinance 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, for the forfeiture of any ship or any share in a ship or the forfeiture of any means of conveyance other than a ship.

### **Attachment of moneys payable by the Crown**

**20.**—(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 receiver to receive the money on his behalf, the Senior Judge's Court may, subject to the provisions of this Ordinance 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 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; or
- (b) any money which is subject to the provisions of any written law prohibiting or restricting assignment or charging or taking in execution.

(2) The provisions of subsection (1) of this section shall, so far as they relate to forms of relief falling within the jurisdiction of the Judge's Court, have effect in relation to the Judge's Court as they have effect in relation to the Senior Judge's Court.

## **PART 5**

### **Miscellaneous and Supplemental Miscellaneous**

#### **Discovery**

**21.**—(1) Subject to and in accordance with rules of Court—

- (a) in any civil proceedings in any 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.

(2) Any order of the Court made under the powers conferred by paragraph (b) of subsection (1) of this section, shall direct by what officer of the Crown the interrogatories are to be answered.

(3) Without prejudice to the proviso to subsection (1) of this section, any rules of court made for the purpose 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 Administrator, it would be injurious to the public interest, to disclose the existence thereof.

### **Exclusion of proceedings in rem against the Crown**

**22.**—(1) Nothing in this Ordinance 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 any Court, against any such ship, aircraft, cargo or other property, the Court may, if satisfied either on application by the plaintiff or 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 personam duly instituted against the Crown in accordance with the provisions of this Ordinance, 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.

(3) Any order made, in accordance with the provisions of subsection (2) of this section, may be upon such terms, if any, as the Court thinks just; and where the Court make any such order, it may make such consequential orders as the Court thinks expedient.

### **Limitation of actions against public officers**

**23.** Nothing in this Ordinance shall prejudice the right of the Crown or any public officer to rely upon any written law relating to the limitation of time for bringing proceedings against public officers.

### **Application to the Crown of certain written laws**

**24.** This Ordinance shall not prejudice the rights of the Crown to take advantage of the provisions of any written law although not named therein; and it is hereby declared that in any civil proceedings against the Crown the provisions of any written law 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.

### **No abatement or demise of Crown**

**25.** 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.

## **Abolition of certain writs**

26. No writs of extent or diem clausit extremum shall issue after the commencement of this Ordinance.

## **Supplemental**

### **Rules of Court**

27.—(1) Any power to make rules of court to provide for any matters relating to the procedure of any Court shall include power to make rules of court for the purpose of giving effect to the provisions of this Ordinance, 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 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 the Areas;
- (b) for securing that where any civil proceedings are brought against the Crown in accordance with the provisions of this Ordinance 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 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 for 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 that 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 that a person shall not be entitled to avail himself of any set-off or counterclaim in any proceedings by the Crown for the recovery of taxes, duties or penalties, or to avail himself 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.

(3) Provision may be made by rules of court for regulating any appeals to the Senior Judge's Court, whether by way of case stated or otherwise, under any written law relating to the revenue, and any rules made under this subsection may revoke any written law or rules in force immediately before the commencement of this Ordinance so far as they regulate any such appeals, and may make provision for any matters for which provision was made by any written law or rules so in force.

### **Pending proceedings**

28. Save as otherwise expressly provided, the provisions of this Ordinance shall not affect proceedings by or against the Crown which have been instituted before the commencement of this Ordinance; and for the purposes of this section proceedings against the Crown under subsections (1) and (2) of section 55 of the Courts Ordinance, 1960, shall be deemed to have been so instituted if the provisions of the said subsections (now repealed) have been complied with before the commencement of this Ordinance.

### **Financial provision**

29. Except in so far as the Administrator may otherwise authorise, any sum payable to the Crown by reason of this Ordinance, shall be paid to the Fiscal Officer.

## Section 54 and 55 of Ordinance 1960 repealed

30. Section 54 and 55 of the Courts Ordinance, 1960, are hereby repealed.

### Savings

31.—(1) *Except where Part VI applies (a)*, nothing in this Ordinance shall apply to proceedings by or against, or authorise proceedings in tort to be brought against, Her Majesty in Her private capacity or in right of Her armed forces or otherwise than in respect of Her Administration in the Areas.

(2) Except as therein expressly provided, nothing in this Ordinance shall—

- (a) affect the law relating to prize salvage, or apply to proceedings in causes or matters within the jurisdiction of the Senior Judge's Court as a prize Court or to any criminal proceedings; or
- (b) authorise proceedings to be taken against the Crown under or in accordance with this Ordinance in respect of any alleged liability of the Crown arising otherwise than in respect of Her Majesty's Administration in the Areas, or affect proceedings against the Crown in respect of any such alleged liability as aforesaid; or
- (c) affect any proceedings by the Crown otherwise than in right of Her Majesty's Administration in the Areas; or
- (d) authorise proceedings to be taken against the Crown under or in accordance with this Ordinance in respect of any alleged act or omission of any officer of the Republic exercising powers or performing duties in the Areas under the provisions of the Powers and Duties (Officers of the Republic of Cyprus) Ordinance, 1960, or any official or agent appointed by any such officer of the Republic, or any officer, servant or agent of any organisation established in the Republic or the Colony, operating public utility services in the Areas or any other person or organisation engaged in any occupation or carrying out any function whether for the benefit of or connected with Her Majesty's Administration in the Areas or not and whether authorised or permitted to exercise such function under any Ordinance or not, whose selection for office or employment or agency is not solely controlled by the Crown; or
- (e) 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
- (f) affect any rules or evidence or any presumption relating to the extent to which the Crown is bound by any written law; or
- (g) affect any rights of the Crown to control or otherwise intervene in proceedings affecting its rights, property or profits,

and, without prejudice to the general effect of the foregoing provisions, Part IV of this Ordinance shall not apply to the Crown except in right of Her Majesty's Administration in the Areas.

(3) A certificate of the Legal Adviser—

- (a) to the effect that any alleged liability of the Crown arises otherwise than in respect of Her Majesty's Administration in the Areas;
- (b) to the effect that any proceedings by the Crown are proceedings otherwise than in right of Her Majesty's Administration in the Areas, shall, for the purposes of this Ordinance, 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 intention of the Crown, the Crown shall not by virtue of this Ordinance be subject to any liabilities in tort by reason only of the property being so vested; but

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(a) Text inserted by Ordinance 23/2005 – came into force on 13 September 2005

the provisions of this subsection shall be without prejudice to the liabilities of the Crown under this Ordinance 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 Ordinance 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 Ordinance, notwithstanding that by reason of the provisions of this Ordinance some other and further remedy is available.

## **PART 6 (a)**

### ***Application to Crown in right of Her Majesty's Government in the United Kingdom***

#### ***Application to Crown in Right of Her Majesty's Government in the United Kingdom***

**32.—***(1) Notwithstanding anything to the contrary contained elsewhere in this Ordinance, section 3, Parts III, IV, and V shall, so far as relevant, apply to and authorise civil proceedings to be taken against the Crown in right of Her Majesty's Government in the United Kingdom where—*

- (a) the Ordinance to be relied on in the proceedings as providing a cause of action expressly applies to the Crown in right of Her Majesty's Government in the United Kingdom; or*
- (b) the claim is one to which subsection (2) refers.*

*(2) The claims to which subsection (1)(b) applies are—*

- (a) a claim for damages for breach of a contract of employment or any other contract connected with employment;*
- (b) a claim for a sum due under such a contract;*

*being in each case a claim—*

- (i) that a court or tribunal in the Areas would under the law for the time being in force have jurisdiction to hear and determine an action in respect of the claim; and*
- (ii) brought by a person in the service of the Crown in right of Her Majesty's Government in the United Kingdom other than a person referred to in subsection (3).*

*(3) Subsection (2) shall not apply in relation to—*

- (a) a member of the armed forces of the Crown;*
- (b) a member of a Civilian Component as defined in paragraph 1(b) of section 1 of Annex C of the Treaty of Establishment; or*
- (c) a person enjoying the rights and facilities of a member of the armed forces of the Crown by virtue of paragraph 3 of section 9 of Part II of Annex B of the Treaty of Establishment, other than as a dependent.*

*(4) For the purposes of this section, persons in the service of the Crown in right of Her Majesty's Government in the United Kingdom shall be treated as employees of the Crown in that capacity, whether or not they would otherwise be so treated apart from this subsection.*

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(a) Part 6 inserted by Ordinance 23/2005 – came into force on 13 September 2005

## SCHEDULE 1

(section 9)

### **Proceedings abolished by this Ordinance**

- 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 against Her Majesty by way of petition of right.
  - (2) Proceedings against Her Majesty by way of *monstrans de droit*.