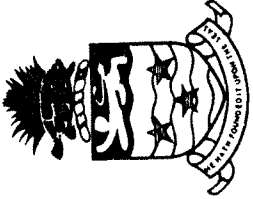


CAYMAN ISLANDS



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THE CROWN PROCEEDINGS LAW
(Law 27 of 1965)
(Revised)

(Consolidated with Law 17 of 1966 and Law 13 of 1968 and revised under the authority of the Law Revision Law).

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THE CROWN PROCEEDINGS LAW
(Revised)

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THE CROWN PROCEEDINGS LAW
(Revised)

A Law 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 or property of the Crown, and for purposes connected therewith.

PART I — Introductory

Short title.	1. This Law may be cited as the Crown Proceedings Law (Revised).
Interpretation.	2. (1) In this Law, unless the context otherwise requires — “agent”, when used in relation to the Crown, includes an independent contractor employed by the Crown; “Attorney General” means the officer appointed as such under section 54 of the Cayman Islands (Constitution) Order in Council, 1972; “civil proceedings” does not include proceedings which in England would be taken on the Crown side of the Queen’s Bench Division; “Court” means Grand Court; “Crown” means Her Majesty in right of Her Government in the Islands; “officer”, in relation to the Crown, includes any servant of Her Majesty; “order” include a judgment, decree, rule, award or declaration; “prescribed” means prescribed by rules of court; “proceedings against the Crown” includes a claim by way of set-off or counter-claim raised in proceedings by the Crown; “rules of court” means rules made by the Rules Committee of the Court; and “statutory duty” means any duty imposed by or under any Law.
S.I. 1101 of 1972.	

(2) References to this Law include reference to rules of court made pursuant thereto.

(3) The Crown is not, for the purposes of Parts IV and V, 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 this Law, the Crown is 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 him 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 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
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the act or omission would, apart from this Law, 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 this Law, the Crown is, in respect of a failure to comply with that duty, 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) An enactment which negatives or limits the amount of the liability of any Government department or officer of the Crown in respect of a tort committed by that department or officer applies, in the case of proceedings against the Crown under this section in respect of a tort committed by that department or officer, in relation to the Crown as it would apply in relation to that department or officer if the proceedings against the Crown were proceedings against that department or officer.

(5) No proceedings 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 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 general revenue of the Islands, or any fund certified by the Financial Secretary for the purposes of this subsection or was, at the material time, holding an office in respect of which the Financial Secretary certifies that the holder thereof would normally be so paid

4. (1) If 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 this Law, civil proceedings in respect of the infringement lie against the Crown.

Industrial property.

(2) Save expressly provided by this section, no proceedings lie against the Crown by virtue of this Law in respect of the infringement of a patent, a registered trade mark, or of any such copyright as is mentioned in subsection (1).

Indemnity, joint 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 is 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 subsection (1), the Law Reform (Tort)feasors) Law (which relates to proceedings against, and contribution between, joint and several tort-feasors) binds the Crown.

Law 8 of 1965.

Law 9 of 1945.

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

Liability in respect
of Crown docks,
harbours etc.
57 & 58 Vict. c.40.
etc.

6. (1) The provisions of the Merchant Shipping Acts, 1894 to 1972, which limit the amount of the liability of the owners of docks and canals, and of harbour and conservancy authorities, apply for the purpose of limiting the liability of the Crown as the owner of any dock or canal, or as a harbour or conservancy authority, and that all the relevant provisions of those Acts have effect in relation to the Crown accordingly.

(2) In this section the expressions "dock", "harbour", "owner", "harbour authority" and "conservancy authority" have respectively the same meanings as they have for the purposes of section 2 of the Merchant Shipping (Liability of Shipowners and others) Act, 1900.

61 & 42 Vict. c.12

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

Postal articles.

7. (1) No proceedings in tort 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, nor is any officer of the Crown subject, except at the suit of the Crown, to any civil liability for the matters aforesaid.

(2) In this section the expression "postal article" includes a telegram.

(3) A reference in this section to a postal article includes a reference to its contents.

(4) Nothing in this section affects any provisions of the Post-Office Law or of any regulations made thereunder in relation to the payment of compensation for loss of or damage to a postal article.

Cap. 129.

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 subjects 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 Governor 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 of omission was not connected with the execution of his duties as a member of those forces.

(2) No proceedings in tort 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

— The Crown Proceedings Law [R]

of any such land, premises, ship, aircraft or vehicle, or in consequence of the nature or condition of any equipment or supplies used for the purposes of those forces; and

(b) the Governor 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 Governor, if satisfied that —

(a) a person was or was not on any particular occasion on duty as a member of the armed forces of the Crown; or

(b) 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 thereto; and such certificate shall, for the purposes of this section, be conclusive.

PART III — Jurisdiction and Procedure

Right to sue the Crown.

9. Where any person has a claim against the Crown after the commencement of this Law, and, if this Law had not been passed, the claim might have been enforced, whether subject to the grant of a fiat or not, or by a proceeding provided by the common law, then, subject to this Law, 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 this Law.

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 bailiff or other like officer; and all rules of court relating to interpleader proceedings shall, subject to this Law, have effect accordingly.

Parties to proceedings.

11. (1) Civil proceedings by the Crown shall 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 by or against the Attorney General shall abate or be affected by a change in the person holding the office of Attorney General.

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 shall be served on the prescribed officer.

Nature of relief.

13. (1) In any civil proceedings by or against the Crown the Court has, subject to this Law, 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 in-

junction 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.

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

Appeals and stays of execution.

15. A reference in this Part to civil proceedings by or against the Crown shall be construed as a reference to such proceedings as the Crown or any person is entitled to bring by virtue of this Law, and the expression "civil proceedings by or against the Crown" shall be construed accordingly; but this Part does not affect proceedings brought by the Attorney General on the relation of some other person.

Scope of Part III.

PART IV — Judgments and Execution

16. (1) If, 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 the 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 latter, issue to that person a certificate in the prescribed form containing particulars of the order and, if the Court so directs, a separate certificate may be issued with respect to the costs (if any) ordered to be paid to the applicant.

Satisfaction of orders against the Crown.

(2) A copy of a 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 on the person acting as solicitor, for the Crown or the officer concerned.

(3) If the order provides for the payment of any money by way of damages or otherwise, or of any costs, it shall state the amount so payable, and the appropriate Government department shall, subject as hereinafter 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, 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 the 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.

Execution by the Crown.

17. Subject to this Law, an order made in favour of the Crown against a person in 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.

Attachment of money payable by the Crown.

18. 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 Court may, subject to this Law, 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.

PART V — Miscellaneous and Supplementary

Discovery

- 19. (1) Subject to rules of court —
 - (a) in any civil proceedings 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 is 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) An order of the Court made under the powers conferred by paragraph (b) of subsection (1) shall direct by what officer of the Crown the interrogatories are to be answered.

- (3) 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 the Governor, it would be injurious to the public interest to disclose the existence thereof.

Exclusion of proceedings in rem against the Crown.

20. (1) Nothing in this Law authorises 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 gives to any person any lien on any such vessel, cargo or other property.

- (2) Where proceedings in rem have been instituted in the 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 this Law, 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 as the Courts thinks just; and where the Court makes any such order it may make such consequential orders as the Court thinks expedient.

21. This Law does not prejudice the right of the Crown to take advantage of the provisions of a Law although not named therein; and in any civil proceedings against the Crown the provisions of any 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.

22. 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.

23. (1) The power to make rules of court includes power to make rules for the purpose of giving effect to this Law, and any such rules may contain provisions to have effect in proceedings by or against the Crown in substitution for or by way of addition to any rules applying to proceedings between subjects.

(2) Provisions may be made by rules of court for —

- (a) 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 these Islands;
- (b) securing that where any civil proceedings are brought against the Crown in accordance with this Law 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) 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) excepting proceedings brought against the Crown from any rule of court providing for summary judgment without trial, and for enabling 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;
- (e) enabling evidence to be taken on commission in proceedings by or against the Crown;
- (f) providing —
 - (i) that a person shall not be entitled to avail himself of any set-off or counter-claim 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

Application to the
Crown of other
Laws.

No abatement on
demise of Crown.

Rules of court.

or counter-claim without the leave of the Court;
(g) providing for the mode of trial where the Crown becomes a party to any civil proceedings in tort after such proceedings have commenced.

Financial provisions. 24. (1) Expenditure incurred by or on behalf of the Crown by reason of the passing of this Law shall be defrayed out of money voted by the Legislature.

(2) Sums payable to the Crown shall be paid into general revenue.

Savings.

25. (1) Unless otherwise provided, nothing in this Law —
- (a) authorises proceedings to be taken against the Crown under this Law in respect of any alleged liability of the Crown arising otherwise than in respect of Her Majesty's Government in these Islands, or affect proceedings against the Crown in respect of any such alleged liability as aforesaid; or
 - (b) affects any proceedings by the Crown otherwise than in right of Her Majesty's Government in these Islands; or
 - (c) subjects 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) affects any rules of evidence or any presumption relating to the extent to which the Crown is bound by any Law; or
 - (e) affects any right of the Crown to control or otherwise intervene in proceedings affecting its rights, property or profits; or
 - (f) affects any proceedings for the recovery of any taxes within the meaning of the Tax Collection Law or of any fines or penalties, or for the forfeiture and condemnation of any goods,
- and Part IV does not apply to the Crown except in right of Her Majesty's Government in these Islands.

Cap 163.

(2) A certificate of the Governor —

- (a) to the effect that any alleged liability of the Crown arises otherwise than in respect of Her Majesty's Government in these Islands; or
 - (b) to the effect that any proceedings by the Crown are proceedings otherwise than in right of Her Majesty's Government in these Islands,
- shall be conclusive.

(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 Law be subject to any liabilities in tort by reason only of the property being so vested; but this subsection is without prejudice to the liabilities of the Crown under this Law in respect of any period after the Crown or any person acting for the Crown has taken possession or control of such property, or entered into occupation thereof.

(4) This Law does not limit the discretion of the Court to grant relief by way of mandamus in cases in which such relief might have been granted its commencement, notwithstanding that by reason of this Law, some other remedy is available.

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day of

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Clerk of the Executive Council.