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THE GRAND COURT LAW (LAW 8 OF 1975)

(1995 Revision)

Consolidated with Laws 28 of 1977, 1 of 1981, 12 of 1985 and 7 of 1987 and with the Grand Court Law (Amendment) Order, 1995 (Gazette Extraordinary 3-30th January, 1995).

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GRAND COURT LAW (LAW 8 OF 1975)

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GRAND COURT LAW (LAW 8 OF 1975)

(1995 Revision)

1. This Law may be cited as the Grand Court Law (1995 Revision). Short title

2. In this Law, unless the context otherwise requires- Definitions

“bailiff” means the person appointed under section 7 and includes an assistant bailiff;

“Clerk of the Court” means the person appointed under section 7;

“Constitution” means the Constitution of the Cayman Islands (as amended) set out in Schedule 2 to the Cayman Islands (Constitution) Orders 1972-1993;

“Court” means the Grand Court and includes a Judge of that Court;

“Judge” means a Judge of the Court; and

“Rules” mean Rules of Court made under section 19.

3. The Grand Court for the Cayman Islands shall continue as reconstituted by the Constitution and this Law and shall have and exercise the jurisdiction and powers therein and thereafter provided. Grand Court to be constituted and exercise jurisdiction under the Constitution and this Law

4. The Court shall continue to be named “The Grand Court of the Cayman Islands” and shall consist of the Chief Justice and one or more other Judges who shall exercise all the jurisdiction of the Court and who shall have seniority, following the Chief Justice, in an order to be determined by the Governor, the Chief Justice having responsibility for and management of all matters arising in judicature: Style and constitution of the Court

- Provided that the Court shall be deemed to be duly constituted during and notwithstanding any vacancy in the office of Chief Justice or of any Judge.

5. The seal of the Court provided for in section 49H(2) of the Constitution shall be kept in the custody of the Clerk of the Court, in accordance with any directions which the Chief Justice may give in that behalf, and all writs and other processes of the Court shall be sealed therewith. Seal of the Court

6. (1) The Governor, acting in his discretion, shall appoint persons who are qualified for appointment under subsection (2) to be the Chief Justice and the Appointment and qualifications of Chief Justice and Judges

Judges. The person appointed to be Chief Justice shall take precedence of and have seniority over the other Judges.

(2) Any person qualified to practise as a barrister or solicitor in England or in an equivalent capacity in a Commonwealth country approved by the Governor as having comparable standards for call or admission to practise and who has so practised for not less than ten years shall be qualified to be appointed a Judge.

Officers of the Court
1976 Revision

7. (1) The Governor, in accordance with the Public Service Commission Law (Revised), after consultation with the Chief Justice, may appoint a Clerk of the Court, a bailiff, an assistant bailiff, a marshal and such other officers as may from time to time appear necessary, who, subject to this or any other law, shall perform such duties as the Chief Justice may direct or as may be provided by any Rules.

(2) Officers of the Court shall give security, in such sum as the Governor from time to time shall in each case order, for the fidelity in the performance of their several duties, and for the due accounting for the payment of all moneys received by them under this Law.

(3) A person appointed as a marshal under subsection (1) shall, in addition to the powers and duties conferred or to be performed by him as directed by the Chief Justice or as may be provided by any Rules, have-

- (a) the power to administer oaths to witnesses and jurors in all matters before the Court or in connection with any proceedings pending before the Court;
- (b) within the precincts of the Court and on the order or direction of a Judge, the power without warrant to take into custody and detain any person until the rising of the Court; and
- (c) all the powers and immunities of a bailiff appointed under subsection (1).

Duties of Clerk of the
Court

8. (1) The Clerk of the Court shall be *ex officio* the Registrar of the Court and shall have power to administer oaths and take affidavits, solemn declarations and affirmations in all matters before the Court or arising in Chambers or in the office of the Court or in connection with the proceedings pending before the Court.

(2) The Clerk of the Court shall be responsible to the Chief Justice for the maintenance in minute books kept for that purpose of all records of the Court, and to the Financial Secretary for the keeping of accounts of all monies received by way of fines, fees and payment made into and out of court and on any other account whatsoever.

(3) In any case in which a Judge is not present at the time and place appointed for the sitting of the Court, the Clerk of the Court shall have power to adjourn the Court in accordance with any directions given by such Judge in that behalf, or in default of any such instructions for any period not exceeding seven days.

(4) In addition to other duties, the Clerk of the Court shall ordinarily attend all sittings of the Court, and at such sittings shall call jurors, arraign prisoners, receive and record verdicts, administer oaths to witnesses and jurors, issue summonses, writs and all other processes of the Court, and shall keep minutes and records of proceedings, judgments and orders of the Court.

9. No Judge or officer of the Court shall act as a legal practitioner or legal agent in any cause or matter whatsoever unless specifically authorised in that behalf by this or any other law and, when so acting in accordance with such authorisation, such Judge or officer shall pay into the Treasury any fee charged in respect of the services rendered by him in such cause or matter.

Judicial and other officers not to act for private persons

10. The Court shall have an office at Grand Cayman, and such office shall be kept open for the transaction of public business on every day of the year except Saturdays, Sundays and public holidays, during the normal working hours of the offices of the Government.

Office of the Court

11. (1) The Court shall be a superior court of record and, in addition to any jurisdiction heretofore exercised by the Court or conferred by this or any other law for the time being in force in the Islands, shall possess and exercise, subject to this and any other law, the like jurisdiction within the Islands which is vested in or capable of being exercised in England by-

Jurisdiction vested in the Court

- (a) Her Majesty's High Court of Justice; and
- (b) the Divisional Courts of that Court,

as constituted by the Supreme Court of Judicature (Consolidation) Act, 1925, and any Act of the Parliament of the United Kingdom amending or replacing that Act.

U.K. Act

(2) Without prejudice to subsection (1), the Court shall have and shall be deemed always to have had power to make binding declarations of right in any matter whether any consequential relief is or could be claimed or not.

12. The Court shall be Colonial Court of Admiralty within the meaning of the Colonial Courts of Admiralty Act, 1890, and all proceedings in Admiralty shall be had and taken on the Admiralty side of the Court.

Admiralty proceedings
U.K. Act

Grand Court Law (1995 Revision)

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| Bankruptcy jurisdiction
1978 Revision | 13. The Court shall continue to be the Chief Court of Bankruptcy and shall have and exercise all the jurisdiction and powers conferred on that Court under the Bankruptcy Law (Revised). |
| Mental incapacity | 14. The Court shall have power to appoint guardians of the persons and estates of persons of unsound mind or suffering from mental illness and for that purpose to enquire into, hear and determine by inspection of the person the subject of such inquiry, or to examine on oath or otherwise the party in whose custody or charge such person may be, or any other person or persons, or use such other ways and means by which the truth may be best discovered. |
| Matrimonial jurisdiction
Law 9 of 1976 | 15. The Court shall have and exercise general jurisdiction in divorce and matrimonial causes and matters in accordance with the Matrimonial Causes Law. |
| Law and equity to be
administered
concurrently | 16. In every civil cause or matter law and equity shall be administered concurrently. The Court in the exercise of the jurisdiction vested in it shall have power to grant and shall grant, either absolutely or on such reasonable conditions as shall seem just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim or defence properly brought forward by them respectively in such cause or matter, so that so far as possible all matters in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters be avoided. In all matters in which there is any conflict or variance between the rules of law and the rules of equity with reference to the same matter, the rules of equity shall prevail. |
| Counterclaims and third
parties | 17. The Court shall have power, subject to the procedural requirements of any other law or any Rules, to grant to any defendant, in respect of any legal or equitable estate, right or title claimed or asserted by him, all such relief against any plaintiff as such defendant shall have properly claimed by his pleading and as the Court might have granted in an action instituted by the same defendant against the same plaintiff. The Court may also grant all such relief relating to or connected with the original subject of the cause or matter and in like manner claimed against any other person, whether or not already a party to the same cause or matter, who shall have been duly served with notice in writing of such claim pursuant to any Rules or order of the Court, as might properly have been granted against such person if he had been made a defendant to an action duly instituted by the same defendant for the like purpose. Any person served with any such notice shall thenceforth be deemed to be party to such cause or matter with the same right in respect of his defence against such claim as if he had been served in the ordinary way by such defendant. |

18. (1) Subject to this or any other law, the jurisdiction of the Court shall be exercised in accordance with any Rules made under this Law.

Jurisdiction to be exercised in accordance with Rules, but English practice to apply where no other provision made

(2) In any matter of practice or procedure for which no provision is made by this or any other law or by any Rules, the practice and procedure in similar matters in the High Court in England shall apply so far as local circumstances permit and subject to any directions which the Court may give in any particular case.

19. (1) There shall be a Rules Committee, which shall consist of-

Rules Committee and Rules of Court

- (a) the Chief Justice, who shall be the Chairman;
- (b) the Attorney-General; and
- (c) two persons who are entitled to practice as legal practitioners before the Court, who shall be appointed by the Chief Justice after consultation with the Cayman Islands Law Society.

(2) At a meeting of the Rules Committee, the Chief Justice and one other member shall constitute a quorum.

(3) The Rules Committee may, subject to this or any other law, make rules, to be called Rules of Court, for all or any of the following purposes-

- (a) regulating pleading, practice and procedure in respect of the conduct of criminal business and of civil business before the Court in relation to all matters within the jurisdiction of the Court, whether original or appellate in nature;
- (b) prescribing forms to be used in any proceedings before the Court;
- (c) subject to subsection (4), prescribing fees of the Court;
- (d) prescribing the fees and costs of legal practitioners in contentious matters, and regulating their taxation;
- (e) prescribing duties of officers of the Court;
- (f) prescribing books and accounts to be kept by officers of the Court;
- (g) regulating the powers of notaries public and persons authorised to administer oaths;
- (h) regulating the taking, giving and admission of evidence;
- (i) regulating the reference to arbitration of matters in dispute; and
- (j) generally, providing for such other matters as may be reasonably necessary for or incidental to the administration of this Law.

(4) A rule of Court prescribed in paragraph (c) of subsection (3) shall not have effect until it has been approved by the Governor in Council.

(5) Rules made under subsection (3) may-

- Law 11 of 1975
- (a) apply any Rules of the Supreme Court in England which regulate the practice and procedure in the High Court in England;
 - (b) provide that any such Rules shall apply as they are from time to time applicable in England by reason of the repeal, amendment or substitution of any such Rules there; and
 - (c) revoke, replace or amend any rules made or prescribed under the Judicature Law.

(6) No rules of Court made under this section shall come into force until they have been published in the Gazette.

Orders for interim payment

20. (1) The power to make Rules under section 19 shall include power to make provision for enabling the Court, in such circumstances as may be specified in such Rules, to make an order requiring a party to any proceedings pending before it make an interim payment of such amount as may be specified in the order, either by payment into Court or (if the order so provides) by paying it to another party to the proceedings.

(2) Rules made under subsection (1) may include-

- (a) provision for enabling the party who, in pursuance of such order, has made an interim payment to recover the whole or part of the amount thereof in such circumstances as may be determined in accordance with the Rules; and
- (b) such incidental, supplementary and consequential provisions as the Rules Committee may consider necessary or expedient.

(3) Nothing in this section shall be construed as affecting the exercise of any power relating to costs, including any power to make Rules relating to costs.

(4) In this section-

- (a) "interim payment" means a payment on account of any damages, debt or other sum (excluding any costs) which a party to any proceedings may be held liable to pay to or for the benefit of another party to the proceedings if a final judgment or order of the Court in the proceedings is given or made in favour of that other party; and
- (b) a reference to a party to any proceedings includes a reference to any person who for the purposes of those proceedings acts as next friend or guardian of a party to the proceedings.

1976 Revision

(5) Rules made under this section shall bind the Crown only insofar as any proceedings to which it is applicable can be brought by or against the Crown in accordance with the Crown Proceedings Law (Revised).

21. The Court shall hold sessions for the trial of both civil and criminal cases on the first Wednesday in the months of January, March, May, July, September and November in every year and shall continue until the business of the Court is completed. In the event of the first day being a public holiday, the Court shall be held on the next working day. On occasions when there is no business before the Court, the Court may dispense with the holding of any particular session giving seven days' notice to that effect by notice published in the Gazette. Sessions of the Court
22. The Court shall have and exercise jurisdiction in respect of appeals from the Summary Court in accordance with the Summary Jurisdiction Law and the Criminal Procedure Code, and shall sit for the purpose of hearing any such appeals once at least in every three months, and may sit for such purpose at any other time if the Judge deems it expedient. Appellate jurisdiction
Law 10 of 1975
Law 13 of 1975
23. Except in cases where it is otherwise expressly provided by any law, a Judge may sit in chambers at any time to hear and determine all matters brought before him on summons or motion, and may direct that any motion be heard in open court or adjourned into court, if, in his discretion, he considers it expedient that any matter be heard in court. Proceedings in chambers
24. A Judge, whether sitting in court or in chambers, may from time to time adjourn the hearing of any case to such time as seems expedient; and, unless it is expressly provided to the contrary by any law, may also enlarge the time for doing any act or taking any step in any proceeding before the Court whether civil or criminal. Power to adjourn, etc.
25. Notwithstanding the foregoing provisions, the Attorney-General shall, in addition to any power conferred upon him by any other law, be entitled to act and appear in his official capacity on behalf of the Crown, the Governor, the Government or any department or officer of the Government in the Court of Appeal, the Court and any other court in the Islands, and shall be deemed to be *ex officio* the head of the legal profession in the Islands and, subject to the Constitution and any other law, shall have and exercise within the Islands the same powers and duties as the Attorney-General has and exercises in England. Attorney-General may appear *ex officio* in any Court
26. (1) Any copy of an entry in any book or record of the Court purporting to bear the seal of the Court and to be signed and certified as a true copy by the Clerk of the Court shall at all times be admitted in all courts in the Islands as *prima facie* evidence of the particulars of such entry and of the facts therein stated, and of the regularity of the proceedings referred to. Copies of records of the Court as evidence
- (2) Certified copies of records of the Court may be obtained by any party to any proceedings, or his legal representative, subject to the Rules and upon payment therefor of any prescribed fee.

Summary powers in cases of contempt

27. (1) Without prejudice to any powers conferred upon the Court under section 11(1), the Court shall have jurisdiction to order the arrest of and to try summarily any person guilty of any contempt of the Court or any act insulting to or scandalising the Court or disturbing the proceedings thereof, and any person convicted under this section is liable to imprisonment for six months and to a fine of five hundred dollars.

(2) For the purposes of this section, contempt of court shall include any action or inaction amounting to interference with or obstruction of, or having a tendency to interfere with or to obstruct, the due administration of justice.

Appeals from judgments, etc., of the Court Law 9 of 1975

28. Appeals shall lie from any judgment, decree or order of the Court to the Court of Appeal in accordance with the Court of Appeal Law.

Protection of Chief Justice, Judges and officers of the Court

29. (1) Neither the Chief Justice nor any Judge nor any person acting as Chief Justice or Judge under section 49K of the Constitution shall be liable to be sued in any civil court for any act done or ordered to be done by him-

- (a) when acting within his jurisdiction and in the discharge of his judicial functions; or
- (b) whether or not within the limits of his jurisdiction, provided that he, at the time and in good faith, believed himself to have the jurisdiction to do or order the act complained of, unless it is proved that he acted maliciously and without reasonable cause.

(2) No officer of the Court or other person bound to execute the lawful process or order of the Court or a Judge shall be liable to be sued in any civil court for the execution of any process or order, whether or not it was within the jurisdiction of the Court or a Judge issuing the same, if he would be bound to execute it if it had been within such jurisdiction.

(3) No action shall lie against a Judge in respect of anything done pursuant to a conviction, judgment, decree, declaration or order unless it has been quashed, set aside or rescinded.

Publication in consolidated and revised form authorised by the Governor in Council this 28th day of March, 1995.

Mona N. Banks-Jackson
Clerk of Executive Council