

CAYMAN ISLANDS



Supplement No. 1 published with Gazette No. 22 of 1975.

THE GRAND COURT LAW
(Law 8 of 1975)

Price: \$1.60

Date of operation:
Date of non-disallowance published in Gazette No. of 197 .

MEMORANDUM OF OBJECTS AND REASONS

Now that the Islands are no longer a Dependency of Jamaica, it is considered desirable to revise the provision relating to the constitution and jurisdiction of the Grand Court to confer upon the Court the full status and powers appropriate to a Superior Court.

The Law provides accordingly for the continuation of the Grand Court of the Cayman Islands with increased jurisdiction, for the qualifications and appointment of the Judge and for the principal officers of the Court. (It will be noted, however, that section 32 provides expressly for the continuation in office of the existing officers).

Many of the procedural provisions of the present Law are considered to be out of date in the present circumstances of the Islands, and others are not convenient for local use in that they refer directly or indirectly to matters of practice and procedure used or formerly used in Jamaica. This Law therefore replaces many sections of the Judicature (Administration of Justice) Law, which contained such provisions, and in addition to the new provisions, contained in the Law, will confer upon a Rules Committee power to make new Rules of Court which may make further provision for matters of procedure, the duties of officers of the Court and similar matters. Such Rules may also provide for scales of fees, but no court fees may be increased without the express authority of the Governor in Council (Section 21.)

The Rules Committee will consist of the Judge, the Attorney-General and two legal practitioners in practice in the Islands, who will be appointed after consultation with the Law Society.

It will be noted that section 1 will permit the Governor to appoint the date for the Law to come into operation. It is intended that this provision will allow time for the making of appropriate new Rules of Court, and for the completion of any necessary administrative arrangements after the Law has been passed before the new Law comes into effect.

The provisions of this Law are linked closely with other Laws relating to the Court of Appeal, the exercise of summary jurisdiction and the procedure to be followed in criminal cases, which together are designed to modernise and simplify court procedures and to improve the administration of justice in the Islands.

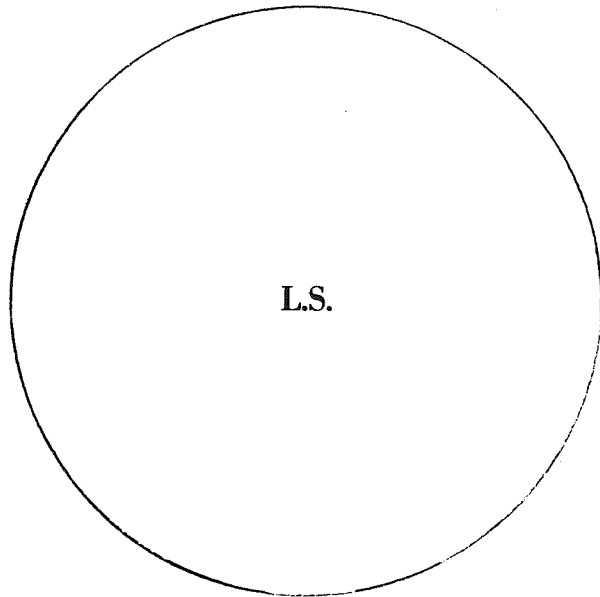
THE GRAND COURT LAW

Arrangement of Sections

Section

1. Short title and commencement.
2. Interpretation.
3. Grand Court to be constituted and exercise jurisdiction under this Law.
4. Style and constitution of the Court.
5. Seal of the Court.
6. Appointment and qualifications of the Judge.
7. Acting Judges.
8. Procedure when the Judge is unable to adjudicate in a particular case.
9. Officers of the Court.
10. Duties of the Clerk of the Court.
11. Judicial and other officers not to act for private persons.
12. Office of the Court.
13. Jurisdiction vested in the Court.
14. Admiralty proceedings.
15. Bankruptcy jurisdiction.
16. Mental incapacity.
17. Matrimonial jurisdiction.
18. Law and equity to be administered concurrently.
19. Counterclaims and third parties.
20. Jurisdiction to be exercised in accordance with Rules, but English practice to apply where no other provision made.
21. Power for Rules Committee to make Rules of Court.
22. Sessions of the Court.
23. Appellate jurisdiction.
24. Proceedings in chambers.
25. Power to adjourn, etc.
26. Attorney-General may appear *ex officio* in any court.
27. Copies of records of the Court as evidence.
28. Summary powers in cases of contempt.
29. Appeals from judgments, etc. of the Court.
30. Protection of Judge and officers of the Court.
31. Amendment of Cap. 70.
32. Saving.
33. Transitional.

CAYMAN ISLANDS



Law 8 of 1975

I assent

T. RUSSELL

Governor

11th October, 1975

A LAW TO MAKE FURTHER PROVISION FOR THE CONSTITUTION, JURISDICTION AND POWERS OF THE GRAND COURT, AND FOR OTHER PURPOSES CONNECTED THEREWITH AND FOR THE BETTER ADMINISTRATION OF JUSTICE IN THE ISLANDS.

ENACTED BY THE Legislature of the Cayman Islands.

Short title and commencement.

1. This Law may be cited as the Grand Court Law, and shall come into operation on a day to be appointed by the Governor by notice published in the Gazette.

Interpretation.

2. In this Law, unless the context otherwise requires —
“Bailiff” means the person appointed as such under the provisions of section 9 and includes an assistant bailiff;
“Clerk of the Court” means the person appointed as such under the provisions of section 9;
“Court” means the Grand Court and includes a Judge of that court;

Grand Court to be constituted and exercise jurisdiction under this Law. Cap. 74.

“Judge” means a Judge of the Court; and

“Rules” means Rules of Court made under the provisions of section 21.

Style and constitution of the Court.

3. The Grand Court of the Cayman Islands, heretofore constituted under the provisions of the Judicature (Administration of Justice) Law, shall continue as reconstituted by this Law and shall have and exercise the jurisdiction and powers hereinafter provided.

4. The Court shall continue to be named “The Grand Court of the Cayman Islands” and shall consist of one or more Judges who shall exercise all the jurisdiction of the Court and who shall have seniority in an order to be determined by the Governor, the senior judge having responsibility and authority for the management of the judiciary:

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

Seal of the Court.

5. The Court shall have and use a seal, in the form heretofore used by the Court or bearing such other device or inscription as the Judge or senior Judge may prescribe, which shall be kept in the custody of the Clerk of the Court, in accordance with any directions which the Judge may give in that behalf, and all writs and other processes of the Court shall be sealed therewith.

Appointment and qualification of the Judge.

6. (1) The Governor may appoint one or more persons, who are qualified for appointment under subsection (2) to be a Judge or 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.

(3) Judges shall receive such emoluments as may be determined by the Governor:

Provided that the emoluments of any person appointed as Judge shall not be diminished during his tenure of office, save with his consent.

Cap. 121.

(4) Notwithstanding the provisions of the Pensions

Law, Judges may continue to hold pensionable office until they attain the age of sixty-five years and thereafter until the completion of any part-heard cases and the delivery of any judgments required to be heard or delivered by them:

Provided that the Governor may in his discretion extend the period of pensionable service beyond the above age limit and, in the case of a Judge appointed under contractual non-pensionable terms, the time of commencement and termination of his appointment shall be in accordance with the terms of such contract, irrespective of the age limit imposed by this section.

(5) A Judge may be removed from his office only for inability to discharge the functions of his office (whether arising from inability of body or mind or any other cause) or for misbehaviour, but shall not be so removed except in accordance with directions given by the Secretary of State.

Acting Judges.

7. In case the office of Judge becomes vacant, or a Judge is unable to discharge the duties of his office by reason of absence or illness, the Governor, acting in his discretion, may appoint a person, qualified under the provisions of subsection (2) of section 6 to act as Judge during the period of such vacancy, absence or illness.

Procedure when the Judge is unable to adjudicate in a particular case.

8. In case a Judge certifies to the Governor that there is pending before the Court any proceeding, whether civil or criminal, in which such Judge has been personally concerned in the exercise of summary jurisdiction, under the Summary Jurisdiction Law, or in respect of which he is personally interested or concerned to such extent as, in his opinion, incapacitates him from sitting as Judge at the hearing of such proceeding, the Governor, acting in his discretion, may appoint a person qualified under the provisions of subsection (2) of section 6 to be an acting Judge to adjudicate at such proceeding, and the person so appointed shall have all the powers and jurisdiction of the Judge in relation to such proceeding.

**Officers of the Court.
Law 38 of 1967.**

9. (1) The Governor, in accordance with the provisions of the Public Service Commission Law, after consultation with the Judge or senior Judge may appoint a Clerk of Court, a Bailiff, assistant bailiff and such other officers as may from time to time appear necessary, who, subject to the provisions of this or any other law, shall perform such duties as the Judge 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 and payment of all moneys received by them under this Law.

Duties of Clerk of the Court.

10. (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 Judge for the maintenance in minute books kept for that purpose of all records of the Grand Court and to the Financial Secretary for the keeping of accounts of all monies received by way of fines, fees, 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 or 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 Grand 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.

Judicial and other officers not to act for private persons.

11. 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.

Office of the Court.

12. 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.

Jurisdiction vested in the Court.

13. (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 the provisions of this and any other laws of the Islands, the like jurisdiction within the Islands which is vested in or capable of being exercised in England by -

- (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.

(2) Without prejudice to the provisions of 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.

Admiralty proceedings.

14. The Court shall be a Colonial Court of Admiralty within the meaning of the Colonial Courts of Admiralty Act, 1890, of the Parliament of the United Kingdom and all proceedings in Admiralty shall be had and taken on the Admiralty side of the Court.

Bankruptcy jurisdiction. Cap. 7.

15. 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 provisions of the Bankruptcy Law.

Mental incapacity.

16. 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.

17. The Court shall have and exercise general jurisdiction in

Cap. 71.

Law and equity to be administered concurrently.

divorce and matrimonial causes and matters in accordance with the provisions of the Divorce Law.

18. 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.

Counter claims and third parties.

19. 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.

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

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

(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.

Power for Rules Committee to make Rules of Court.

21. (1) To the extent to which no other provision in that behalf is made by this or any other Law, the Rules Committee may make Rules of Court for regulating in the best manner the conduct of all civil and criminal business and pleading, practice and procedure in all matters both original and appellate in the Court coming within its cognisance in its various jurisdiction and on its several sides. Such Rules may prescribe the forms to be used, fees of Court and the fees and costs of legal practitioners in contentious matters and the taxing thereof, the duties of the officers of the Court and the books and accounts to be kept by them, the powers of notaries public and other persons authorised to administer oaths, the taking and giving and admission of evidence, the issuing of commissions to take evidence and the reference of matters in dispute to arbitration:

Provided that no rule shall be made which provides for any increase in fees of Court without the approval of the Governor in Council.

(2) The Rules Committee for the purpose of this section shall consist of the Judge, who shall be the chairman, the Attorney-General and two persons who are entitled to practice as legal practitioners before the Court who shall be appointed by the Judge after consultation with the Cayman Islands Law Society. A quorum of the Rules Committee shall be the Judge and one other member.

Law 11 of 1975

(3) Rules made under the provisions of this section may revoke, replace or amend any rules made or prescribed under the provisions of the Judicature Law.

Sessions of the Court.

22. 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.

Appellate jurisdiction.

Law 10 of 1975

Law 13 of 1975.

23. The Court shall have and exercise jurisdiction in respect of appeals from the Summary Court in accordance with the provisions of 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.

Proceedings in chambers.

24. Except in cases where it is otherwise expressly provided by any law the 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.

Power to adjourn, etc.

25. 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.

Attorney-General may appear ex officio in any court.

26. 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 Grand 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 provisions of any other law, shall have and exercise within the Islands the same powers and duties as the Attorney-General has and exercises in England.

Copies of records of the Court as evidence.

27. (1) Any copy of any 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.

(2) Certified copies of records of the court may be ob-

tained by any party to any proceedings, or his legal representative, subject to any provisions of the Rules and upon payment therefor of any prescribed fee.

Summary powers in cases of contempt.

28. (1) Without prejudice to any powers conferred upon the Court under the provisions of subsection (1) of section 13, 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 the provisions of this section shall be liable to imprisonment for a period not exceeding six months or to a fine not exceeding \$500 or to both.

(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.

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

Protection of Judge and officers of the Court.

30. (1) Neither the Judge, nor any person acting as Judge under the provisions of section 7 or 8 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 of the 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 the 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.

Amendment of Cap. 70.

31. Section 3 of the Interpretation Law is hereby amended as follows –

- (a) by deleting the definition of “committed for trial”;
- (b) by deleting the definition of “Grand Court” and substituting the following –

“ ‘Grand Court’ means the Grand Court constituted under the provisions of the Grand Court Law”.

Saving.

32. Upon the date when this Law comes into operation the Judge, the Clerk of the Court, the Bailiff and all other officers of the Court, holding office immediately before such date under the provisions repealed by this Law, shall continue to hold their respective offices and shall be deemed to have been appointed under the respective provisions of this Law.

Transitional.

33. (1) Any proceedings whatsoever pending before the Grand Court immediately before the coming into operation of this Law may continue and the Grand Court shall have and exercise the powers and jurisdiction in respect thereof for which provision is made by this Law.

(2) In case any difficulty shall arise in respect of any such pending proceeding, by reason of the coming into operation of this Law, the Court may give directions, either with respect to a particular proceeding or generally, as to the procedure to be followed for the removal of such difficulty.

Passed the Legislative Assembly this 3rd day of September, 1975.

T. RUSSELL
President

SYBIL McLAUGHLIN
Clerk of the Legislative Assembly.