



BELIZE

**SUPREME COURT OF JUDICATURE ACT
CHAPTER 91**

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CHAPTER 91

SUPREME COURT OF JUDICATURE

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 18 of 2010.
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 S. I. 17 of 1964.

[9th May, 1953]

PART I

Preliminary

Short title.

1. This Act may be cited as the Supreme Court of Judicature Act.

Interpretation.

2. In this Act, unless the context otherwise requires,

“action” means a civil proceeding commenced by writ or in such other manner as may be prescribed, but does not include a criminal proceeding by the State;

“cause” includes any action, suit or other original proceeding between the plaintiff and a defendant, and any criminal proceeding by the State;

“Court” means the Supreme Court constituted by the Constitution, Cap. 4, and includes a judge when exercising any of the jurisdictions conferred on him by this Act, by any other Act or by rules of court;

“decision” means any final adjudication of an inferior court in a cause or matter before it and includes any non-suit, dismissal, judgment, conviction, sentence, order or other determination of the cause or matter;

“defendant” includes every person served with any writ of summons or process, or served with notice of, or entitled to attend, any proceeding;

“judge” means a judge of the Court and includes the Chief Justice;

“judgment” includes decree;

“Legal Education Certificate” means a certificate issued by the Council of Legal Education established by an Agreement made by Commonwealth Caribbean countries at Georgetown, Guyana on 25th November, 1970;

13 of 1975.

“marshal” means the marshal appointed by the Public Services Commission under this Act;

“matter” includes every proceeding in the Court not in a cause;

“order” includes rule;

“party” includes every person served with notice of, or attending, any proceeding although not named on the record;

“petitioner” includes every person making any application to the Court, either by petition, motion or summons, otherwise than as against any defendant;

“plaintiff” includes every person asking any relief, otherwise than by way of counter claim as a defendant, against any other person by any form of proceeding, whether the same is taken by action, suit, petition, motion, summons or otherwise;

“pleading” includes any petition or summons, and also includes the statements in writing of the claim or demand of any plaintiff, and of the defence of any defendant thereto, and of the reply of the plaintiff to any counterclaim of a defendant;

“prescribed” means prescribed by rules of court;

“registry” means the registry of the Court;

“rules of court” means the rules of practice and procedure made under the Supreme Court Ordinance, Cap.153, c. 1. 1924 in force immediately before the commencement of this Act, under this Act and under any other Act conferring the power on the Chief Justice, either by himself or with the concurrence of the other judges, to make rules and orders, and includes forms, fees and costs;

“security” means either a recognisance or a written undertaking with or without sureties in the discretion of the inferior court, and includes the deposit with the inferior court of a sum equal in amount to the sum for which a recognisance or an undertaking is required, which deposit shall be held subject to, and shall abide, the order of the Court or the inferior court.

PART II

Officers of the Court, etc.

Seal.

3.—(1) The Court shall have and use as occasion requires a seal bearing an impression of the Royal Arms within an exergue or label surrounding the same with the inscription “Seal of the Supreme Court of Belize”.

(2) The seal shall be in the custody of the Registrar and be kept in his office.

The registry and
the Registrar.

4.—(1) There shall be a “Supreme Court Registry” comprising the Supreme Court office existing at the date of this Act and the officers and persons then employed therein.

(2) There shall be a Registrar of the Court, who shall have the custody of all records, documents and papers thereof, and shall perform such duties as may be prescribed by any law.

(3) The Registrar shall also have powers and discharge duties corresponding to the powers and duties of the Queen’s Coroner and Attorney and Master of the Crown Office attached to the Queen’s Bench Division of the High Court of Justice in England so far as such powers or duties relate to any judicial proceedings.

(4) The Registrar shall discharge the duties of marshal appointed under this Act, unless some other person is appointed by the Governor-General to discharge those duties.

5.—(1) The Registrar shall have power and jurisdiction to do such of the things and transact such of the business which by virtue of any enactment, or by custom, or by the rules and practice of the Court, are now done and transacted by a judge sitting in chambers as may from time to time be prescribed by rules of court,

Registrar to have power of judge in chambers.

Provided that the Registrar shall have no jurisdiction in respect of matters relating to the liberty of the subject.

(2) Any person affected by any order or decision of the Registrar with respect to the exercise of any such power and jurisdiction may appeal to the Court which shall have power to hear and determine such appeal.

36 of 1963.

6.—(1) There shall be a deputy registrar of the Court who shall, in the absence of the Registrar or his inability from any cause whatever to act, have all the powers and may perform all the duties of the Registrar except where otherwise provided by rules of court.

Deputy registrar and assistant registrar.

(2) There shall be an assistant registrar of the Court who shall in the absence of the Registrar and the deputy registrar or their inability from any cause whatever to act have all the powers and may perform all the duties of the Registrar and the deputy registrar except where otherwise provided by rules of court.

28 of 1980.

(3) The powers conferred by this section on the deputy registrar and the assistant registrar shall be exercised by them subject to and in accordance with any instructions or directions which may from time to time be given by the Registrar,

Provided that no contravention on the part of the deputy registrar or the assistant registrar of any instructions or directions shall affect the validity of any act or thing lawfully done by them under this subsection.

(4) The powers conferred by this section on any person appointed as deputy registrar or assistant registrar shall only be exercised by that person when and after his appointment as deputy registrar or assistant registrar or acting deputy registrar or acting assistant registrar has been duly published in the *Gazette*.

Salaries of Registrar, deputy registrar and assistant registrar.

7. The Registrar, deputy registrar and assistant registrar shall receive such salaries as the Public Services Commission, with the sanction of the National Assembly, may appoint.

Qualification of Registrar.
13 of 1975.

8. The Registrar shall be a barrister or solicitor or a holder of the Legal Education Certificate having at least five years standing in that capacity,

Provided that the Public Services Commission, may, for good and sufficient reason, appoint some fit and proper person not possessing any of these qualifications to be Registrar.

Registrar to administer oaths.

9.—(1) The Registrar shall have power to administer oaths, and take solemn declarations or affirmations *in lieu* of oaths, but he shall not practice, or act as solicitor, conveyancer or notary public or demand or receive any personal fee in compensation for any services rendered in any such capacity.

(2) Nothing contained in subsection (1) of this section, shall prevent the Registrar from acting as conveyancing counsel to the Court, or from receiving for so acting such remuneration as the Court may in each case determine.

- 10.** The Registrar shall be Taxing Master of the Court, and shall tax all bills of costs in accordance with the scale of fees for the time being in force. Taxing Master.
- 11.** The Public Services Commission may from time to time appoint a marshal, a deputy marshal and such number of assistant marshals and such other officers of the Court and Registry as may be necessary for the efficient functioning of the Court. Marshal, deputy assistant marshals and other officers. 28 of 1980.
- 12.** Subject to this Act and the rules of court, the Registrar, the deputy registrar, the assistant registrar, the marshal, the deputy marshal, assistant marshals and all other officers of the Court and Registry shall be under the direction and control of the Chief Justice. Officers to be under direction of Chief Justice.
- 13.—(1)** The marshal, the deputy marshal or the assistant marshal, as the case may be, shall execute all judgments, sentences, orders, writs and processes of the Court, serve all subpoenas, citations and other summonses issuing out of the Court, levy execution against property in accordance with the law, maintain order when present in Court and otherwise carry out the commands of the Court or a judge. Duties and liability of marshal, 28 of 1980.
- (2) The marshal, the deputy marshal or the assistant marshal, as the case may be, shall be liable for all losses, damages, costs, charges and expenses, had and suffered by any person from or by reason of any irregularity, informality, omission or neglect of duty by him, and he may be sued in any manner and form applicable to the circumstances of the case, for the recovery of those losses, damages, costs, charges or expenses. 28 of 1980.
- Provided that, in that suit, the marshal, the deputy marshal and the assistant marshal shall be entitled to the protection given by the Public Authorities' Protection Act, Cap. 31. 28 of 1980.
- (3) Any act or thing required to be done or performed under this Act by the marshal may be done or performed by the deputy marshal or an assistant marshal. 28 of 1980.

Duties of officers of the Court generally.

14. Subject to rules of court and to any other law relating thereto, all officers of the Court and their successors in office shall perform, in connection with the Court or with the judges, duties similar or analogous to those performed by them before the commencement of this Act.

Appointment of commissioners and their powers.

15.—(1) The Court may appoint, by an instrument or instruments under the seal of the Court, the requisite number of fit and proper persons to be commissioners of the Court for taking affidavits and declarations in any cause or matter and, when authorised thereto by a special order of the court or judge, for taking the examination of witnesses or receiving production of documents.

(2) Any appointment made under this section may at any time be cancelled by the Court by an instrument under the seal of the Court.

(3) Any order of the Court or a judge for the attendance and examination of witnesses or production of documents before a commissioner within the jurisdiction of the Court may be enforced in the same manner as an order to attend and be examined or produce documents before the Court.

(4) Subject to any special directions of the Court, a commissioner, when and so far as necessary for performing any duty which he is authorised to perform, shall be deemed to have and may exercise the incidental powers of a judge.

(5) Every commissioner shall be subject to the order and direction of the Court as fully as any other officer of the Court, and every proceeding before a commissioner shall be subject to the direction and control of the Court.

(6) No action shall be brought against a commissioner in respect of any act or order *bona fide* done or made by him in the execution or supposed execution of the jurisdiction and powers vested in him, but every act or order, if in excess of that jurisdiction and those powers, shall be liable to be altered, amended, reversed or set aside on summary application to the Court.

16.—(1) The Court may, when it thinks fit, obtain the assistance of accountants, actuaries or scientific persons to assist it to determine any question at issue in any cause or matter before the Court, and may refer any question depending upon matters of account to some accountant for determination or investigation and report.

Employment of experts and referees.

(2) The Court may allow reasonable fees and expenses to any of those persons to be taxed as costs in the cause or matter.

PART III

Divisions and Jurisdiction of the Court

17.—(1) The Court shall be divided into two divisions, namely, the Criminal Division and the Civil Division, and a reference in this Act or any other law to the Court shall, where the context requires, be read and construed as a reference to the appropriate division of the Court.

Divisions of the Court into Civil and Criminal.
18 of 1998.

(2) Subject to this Act and any Rules made thereunder, the Chief Justice may, after consultation with the Attorney General, assign a judge to a particular division of the Court for any specified period of time, and may likewise reassign a judge from one division to the other division of the Court.

(3) Upon the commencement of this section, the criminal jurisdiction (including appellate criminal jurisdiction) vested in the Court shall be exercised by the Criminal Division of the Court, and jurisdiction in all other matters shall be exercised by the Civil Division of the Court.

(4) Nothing in this section shall prohibit or restrict any judge to hear, determine and dispose of any cause or matter which began before the commencement of this section.

(5) The Attorney-General may by Order published in the *Gazette*, alter the number of divisions of the Court and specify the jurisdiction of each division of the Court after such alteration.

Jurisdictions, powers and authorities of the Court.

18.—(1) There shall be vested in the Court, and it shall have and exercise within Belize, all the jurisdictions, powers and authorities whatever possessed powers and vested in the High Court of Justice in England, including the jurisdictions, powers and authorities in relation to matrimonial causes and matters and in respect of suits to establish legitimacy and validity of marriages and the right to be deemed natural-born Belizean citizens as are, by the Supreme Court of Judicature (Consolidation) Act 1925, c. 49, vested in the High Court of Justice in England,

Provided that a decree declaring a person to be a natural-born Belizean citizen shall have effect only within Belize.

(2) Subject to rules of court, the jurisdictions, powers and authorities hereby vested in the Court shall be exercised as nearly as possible in accordance with the law, practice and procedure for the time being in force in the High Court of Justice in England.

(3) Where any jurisdiction, power or authority is by this Act vested in the Court, the grounds upon which the same may be exercised and other provisions relevant to the subject-matter in respect of which the jurisdiction, power or authority is so vested may be prescribed.

Jurisdiction in insolvency, etc.

19. The Court shall have and exercise jurisdiction in all matters of insolvency and bankruptcy under the Bankruptcy Act, Cap. 244, or any other Act relating to, bankruptcy and shall have all necessary powers for enforcing such jurisdiction.

Jurisdiction in infancy, lunacy, etc.

20.—(1) The Court shall have power,

- (a) to appoint guardians and committees of the persons, and estates of infants and of persons of unsound mind and idiots who are unable to govern themselves or their estates; and
- (b) to inquire into, act in, hear and determine all cases whatever as fully and amply to all intents and purposes as the Lord High Chancellor of Great Britain or the

grantee from the Crown of the persons and estates of infants and of persons of unsound mind and idiots may lawfully do in England.

(2) Any such inquiry may be made by inspection of the person the subject thereof, or by examination on oath or otherwise of the party in whose custody or charge such person may be or of any other person or persons or by such other ways and means by which the truth may best be discovered.

21. Subject to any statutory provisions, every proceeding in the Court and all business arising thereout shall, so far as is practicable and convenient, be heard, determined and disposed of before a single judge, and all proceedings in an action subsequent to the hearing or trial, down to and including the final judgment or order, shall, so far as is practicable and convenient, be had and taken before the judge before whom the trial or hearing took place.

Exercise of Civil Jurisdiction.

22. A judge may, subject to rules of court, exercise in Court or in chambers all or any part of the jurisdictions vested in the Court, in all causes and matters and in all proceedings in any causes or matters which may now be heard in Court or in chambers respectively by a single judge of the High Court of Justice in England or which may be directed or authorised by rules of Court to be so heard.

Proceedings in Court and in chambers.

23. The criminal jurisdiction by this Act vested in the Court shall, together with all the powers incident thereto, be exercised by a single judge sitting with a jury in the same manner and with the same powers and authorities of a judge of assize, of *oyer and terminer* and of gaol delivery in England, or by a single judge sitting apart or in chambers, as the nature of the case may require.

Exercise of criminal jurisdiction.

Appellate Jurisdiction

24. The Court shall have and exercise, in accordance with Part IX of this Act, or in accordance with the provisions of any other Act and of any rules of court, appellate jurisdiction in all cases determined in all inferior courts and in respect of any misdirection or misruling of the said courts.

Appeal from inferior courts.

Admiralty Jurisdiction

Declaring Court a Colonial Court of Admiralty.

25. It is hereby declared that the Court is a Court of Admiralty having, and capable of exercising, the jurisdiction conferred on a court of law in a British possession under the Colonial Courts of Admiralty Act 1890, c. 27, which was brought into force in Belize on 1st July 1911, by Order of His Majesty the King in Council, G. G. 1911, p. 156, S. R. O. 1911 No. 440, p.19, dated 4th May 1911.

Power to reduce interest.

26. Where an agreement for the payment of interest is sought to be enforced, and the Court is of opinion that the rate agreed to be paid is excessive and ought not to be enforced by legal process, the Court may give judgment for the payment of interest at the rate that it thinks just.

Injunctions and appointment of receivers.

27.—(1) Subject to rules of court, the Court may grant a *mandamus* or injunction or appoint a receiver by an interlocutory order in all cases in which it appears to the Court to be just or convenient to do so.

(2) Any such order may be made either unconditionally or on such terms and conditions as the Court thinks just.

(3) If, whether before, or at, or after the hearing of any cause or matter, an application is made for an injunction to prevent any threatened or apprehended waste or trespass, the injunction may be granted, if the Court thinks fit, whether the person against whom the injunction is sought is or is not in possession under any claim of title or otherwise or, if out of possession, does or does not claim a right to do the act sought to be restrained under any colour of title, and whether the estates claimed by both or by either of the parties are legal or equitable.

(4) The prerogative writs of *mandamus*, prohibition and *certiorari* shall no longer be issued by the Court.

(5) In any case where the Court would, but for subsection (4) of this section, have had jurisdiction to order the issue of a writ of *mandamus* requiring any act to be done, or a writ of prohibition prohibiting any proceedings or matter, or a writ of *certiorari* removing any proceedings or matter into the Court for any purpose, the Court may make an order

requiring the act to be done or prohibiting or removing the proceedings or matter, as the case may be.

(6) The said orders shall be called respectively an order of *mandamus*, an order of prohibition and an order of *certiorari*.

(7) No return shall be made to any such order and no pleadings in prohibition shall be allowed, but the order shall be final, subject to any right of appeal therefrom.

(8) In any enactment, references to any writ of *mandamus*, prohibition or *certiorari* shall be construed as references to the corresponding order and references to the issue or award of any such writ shall be construed as references to the making of the corresponding order.

28. Subject to any law, the Court may in any cause or matter make any orders as to the procedure to be followed or otherwise which the Court considers necessary for doing justice in the cause or matter, whether that order has been expressly asked for by the party entitled to the benefit thereof or not.

Power to make orders in cases not provided for.

29. Nothing in this Act shall be construed to take away or abridge any jurisdiction, power or authority now vested in the Court under the Supreme Court Ordinance, Cap. 158, C. L. 1924, in force immediately before the commencement of this Act, and the Court shall have and exercise all other jurisdictions, powers and authorities whatever, which now are, or may hereafter, be expressly or by implication vested in it by any law.

Saving of jurisdiction.

30. The common law right to the writ of *habeas corpus*, as confirmed and regulated by the *Habeas Corpus* Act 1679, c. 2, and extended by the *Habeas Corpus* Act 1816, c. 100, shall be part of the law and procedure of Belize and, subject to any rules of court, shall be granted and issued as nearly as possible in accordance with the practice and procedure for the time being in force in regard to that writ in the High Court of Justice in England.

Writ of *habeas corpus*.

PART IV

Law and Equity

Law and equity to be concurrently administered.

31. Subject to the express provisions of any other Act, in every civil cause or matter commenced in the Court law and equity shall be administered according to the seven sections next following.

Equities of plaintiff.

32. If a plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief on any equitable ground against any deed, instrument or contract, or against any right, title or claim whatever asserted by any defendant or respondent in the cause or matter, or to any relief founded upon a legal right, which formerly could only have been given by a court of equity, the Court or judge shall give to the plaintiff or petitioner the same relief as may now be given by the High Court of Justice in England in a suit or proceeding for the like purpose properly instituted.

Equitable defence.

33. If a defendant claims to be entitled to any equitable estate or right, or to relief on any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by any plaintiff or petitioner in the cause or matter, or alleges any ground of equitable defence to any such claim of the plaintiff or petitioner, the Court or judge shall give to every equitable estate, right or ground of relief so claimed, and to every equitable defence so alleged, the same effect by way of defence against the claim of the plaintiff or petitioner, as the High Court of Justice in England may now give if the like matters are relied on by way of defence in any suit or proceeding instituted in that Court for the like purpose.

Counter claims and third parties.

34.—(1) The Court or judge shall have power to grant to any defendant in respect of any equitable estate or right or other matter of equity, and also in respect of any legal estate, right or title claimed or asserted by him,

- (a) all such relief against any plaintiff or petitioner as the parties defendant has properly claimed by his pleading, and as the Court or judge might have granted in any suit instituted for that purpose by that defendant against the same plaintiff or petitioner; and

- (b) all such relief relating to or connected with the original subject of the cause or matter, claimed in like manner against any other person, whether already a party to the cause or matter or not, who has been duly served with notice in writing of the claim pursuant to rules of court or any order of the Court, as might properly have been granted against that person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose.

(2) Every person served with any such notice as aforesaid shall thenceforth be deemed a party to the cause or matter with the same rights in respect of his defence against the claim as if he had been duly sued in the ordinary way by the defendant.

35. The Court or judge shall take notice of all equitable estates, titles and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the High Court of Justice in England may now take notice of those matters in any suit or proceeding duly instituted therein.

Equities appearing incidentally.

36. No cause or proceeding at any time pending in the Court shall be restrained by prohibition or injunction, but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might formerly have been obtained, whether unconditionally or on any terms or conditions, may be relied on by way of defence thereto,

Defence or stay instead of injunction or prohibition.

Provided that,

- (a) nothing in this Act shall disable the Court, if it thinks fit to do so, from directing a stay of proceedings in any cause or matter pending before it; and
- (b) any person, whether a party or not to any such cause or matter, who would formerly have been entitled to apply to any Court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment

or otherwise, any judgment, decree, rule or order, in contravention of which all or any part of the proceedings in the cause or matter have been taken, may apply to the Court, by motion in a summary way, for a stay of proceedings in the cause or matter, either generally, or so far as may be necessary for the purposes of justice, and the Court shall thereupon make such order as shall be just.

Common law and statutory rights and duties.

37. Subject to the provisions of this Act relating to giving effect to equitable rights and other matters of equity, the Court or judge shall give effect to all legal claims and demands, and all estates, titles, rights, duties, obligations and liabilities existing by the common law of England or by any custom, subject, however, to the Imperial Laws Extension Act, Cap. 2, or created by any law, in the same manner as those matters may now be given effect to by the High Court of Justice in England.

Determination of matter completely and finally.

38. The Court, in the exercise of the jurisdictions vested in it by this Act, shall, in every cause or matter pending before it, grant, either absolutely or on such terms and conditions as the Court thinks just, all such remedies whatever as any of the parties thereto may appear to be entitled to in respect of any legal or equitable claim properly brought forward by them in the cause or matter, so that, as far as possible, all matters in controversy between the parties may be completely and finally determined, and all multiplicity of legal proceedings concerning any of those matters avoided.

Rules of equity prevail.

39. Subject to the express provisions of any other Act, in questions relating to the custody and education of infants and generally in all matters not particularly mentioned in this Act in which there was formerly or is any conflict or variance between the rules of equity and the rules of the common law in England with reference to the same matter, the rules of equity shall prevail in the Court so far as the matters to which those rules relate are cognisable by the Court.

PART V

Sittings of the Court and Vacation

40.—(1) The country shall be divided into three districts for the purpose of holding sittings of the Court, namely, the Northern District, the Central District and the Southern District, and the division between the said districts shall, from time to time, be defined by the Minister by Order published in the *Gazette*.

Division of country into districts. 27 of 1960.

(2) Unless the Minister otherwise determines,

- (a) the Northern District shall consist of and include,
 - (i) the Corozal Administrative District; and
 - (ii) the Orange Walk Administrative District;
- (b) the Central District shall consist of and include,
 - (i) the Belize Administrative District; and
 - (ii) the Cayo Administrative District;
- (c) the Southern District shall consist of and include,
 - (i) the Stann Creek Administrative District; and
 - (ii) the Toledo Administrative District.

41.—(1) Subject to the provisions of Part III, the Chief Justice may determine the distribution of the business before the Court among the judges thereof, and may assign any judicial duty to any judge or judges.

Distribution of business.

(2) The Registrar shall, as early as practicable after the first day of every month, lay before the Chief Justice a list of all causes and proceedings whatever pending in the Court.

Continuous sittings in criminal jurisdiction.
11 of 2003.

Disposal of business before two or more courts.

42. Subject to this Act, the Court shall sit continuously in the exercise of its criminal jurisdiction in each district as the need arises.

43.—(1) The Chief Justice may, before any sitting of the Court in the exercise of its criminal jurisdiction, direct that the business before the Court at that two or more sitting shall be disposed of before two or more courts.

(2) Where the Chief Justice has given a direction under sub-section (1) of this section,

- (a) the business before the Court at that sitting shall be disposed of before two or more Courts, as the case may be; and
- (b) the criminal jurisdiction by this Act vested in the Court, together with all the powers incident thereto, shall be exercised by each of such Courts in the manner provided by section 23 of this Act.

(3) A direction under this section may be oral and shall be given to the Registrar of the Court.

Sittings in civil jurisdiction.
27 of 1960.

44.—(1) In the Central District, sittings of the Court in the exercise of its civil jurisdiction may, subject to this Act, be held throughout the year.

(2) The Chief Justice shall periodically appoint the times for the hearing of civil causes upon such notice, not being less than forty-eight hours, as he may think fit,

Provided that the judge to whom a cause or matter has been assigned for hearing may appoint the time for such hearing upon reasonable notice given to the parties thereto.

(3) If any of the days appointed for any sitting is a *dies-non*, the sitting shall commence on the next following lawful day.

(4) In the Northern District and in the Southern District, sittings of the Court in the exercise of its civil jurisdiction shall be held after the conclusion of the criminal business or upon such days as the Chief Justice may appoint for that purpose.

(5) Judgments and orders may be given and made at any place and time at which the Court is sitting, whether at the place where and during the sittings at which the cause or matter was heard or otherwise.

45.—(1) Every sitting of the Court shall be continuous until the business before it has been disposed of or it is adjourned to some future day.

Continuance of sittings and adjournment. 28 of 1980.

(2) The Court or, in the absence of the judge, the Registrar, the deputy registrar or the assistant registrar, subject to any direction of the judge, may adjourn any sitting of the Court for any convenient time.

(3) If, on the opening or any other day of any sitting of the Court, the judge is unable or fails to attend, the Court shall stand adjourned *de die in diem* until the judge attends or until it is adjourned or closed by his order.

(4) The Registrar may, in accordance with any direction of the judge, postpone that sitting to any other day and notice thereof shall be given by him to all parties.

46. The Court shall sit at the following places, that is to say,

Places of sitting of Court. 27 of 1960.

(a) in the Central District, at the Court House in Belize City;

(b) in the Northern District, at the Court House in Corozal Town; and

(c) in the Southern District, at the Court House in Dangriga,

17 of 1975.

Provided that the Court may sit at other places within those districts which the Minister by Order published in the *Gazette* appoints as places at which sittings of the Court may be held.

Holding of sitting
in another place.

47.—(1) Where it is from any cause impracticable or inconvenient to hold a sitting of the Court at any place mentioned in or appointed under section 46 the Minister may direct the sitting to be held at some other place in the same district.

(2) Nothing in section 46 shall be construed to prevent the Minister from directing any special sitting of the Court in the exercise of its criminal jurisdiction to be held at a place other than a place mentioned in or appointed under that section.

Sitting in North-
ern or Southern
Districts.

48.—(1) If the Chief Justice is of the opinion that the number of cases on the calendar for trial at any sitting of the Court in the Northern District or the Southern District does not warrant the expenses of holding the Court in that district, he may, by Order published in the *Gazette*, direct that the trials of all those cases be transferred to, and be taken in, the Central District.

(2) Where the trial of any case is transferred under subsection (1) of this section, to the Central District, it shall be tried by the jurors summoned for the trial of cases in the Central District,

Provided that nothing in this section shall prevent or be construed as preventing the trial of such case by a jury specially empanelled if the Court shall so direct.

49. *[Repealed by Act 11 of 2003]*

Venue in criminal
proceedings.
27 of 1960.
14 of 1990.

50. Subject to this Act, the venue of every criminal proceeding shall be laid in the district of the Court in which the offence is alleged to have been committed.

Venue in civil ac-
tion.

51. The venue in any civil action, cause or matter may be laid,

- (a) in the case of an action founded on contract, in the district in which the contract was entered into;
- (b) in all cases, in the district in which the defendant resides;

- (c) in the district in which the land, chattel or thing involved in the action, cause or matter is; or
- (d) in all cases, in the district in which the wrongful act was committed or other cause of action arose,

and such action, cause or matter shall be tried at the place where the venue is laid.

52.—(1) Notwithstanding sections 50 and 51 of this Act, the Court may order any civil or criminal cause or matter to be transferred from one district to another whenever it is made to appear by affidavit or otherwise that,

Change of venue.
27 of 1960.

- (a) there is reason to believe that a fair and impartial trial cannot be had in the district in which it had commenced;
- (b) the convenience of witnesses and the ends of justice will be promoted by such transfer; or
- (c) there is any other good and sufficient reason for such transfer.

(2) Notwithstanding section 48(2) of this Act, the Court may by order direct that the trial of any case which is transferred to the Central District under the said section 48 of this Act, shall be retransferred to the District in which such case was originally for trial if it shall be made to appear that there is any good and sufficient reason for so doing.

53. A judge shall take all summonses and hear all petitions and other applications in chambers at such times as he may appoint and in accordance with any rules of court.

Business in chambers.

54.—(1) The Chief Justice may at any time appoint a special sitting of the Court in the Central District for,

Special sitting.
27 of 1960.

- (a) the trial of any civil cause or matter;

- (b) the trial of any criminal cause with the consent of the person or persons committed for trial before the Court in the Central District; or
- (c) the passing of sentence upon any prisoner committed for trial or sentence,

whenever circumstances render it in his opinion expedient to do so, and any such trial and sentence shall have the same validity in every respect as if it had taken place at the time and place when and where it would have been tried in due course.

(2) Any judge may preside at any such special sitting.

55.—(1) The Chief Justice may make such orders as may be necessary to procure the attendance of special or common jurors for the trial of any cause or matter at such special sitting of the Court, at such time and place and in such manner as he may think fit, and prescribe the number of jurors to be summoned, having regard to the list of causes and matters pending for trial by jury at that special sitting.

(2) Every juror who without lawful excuse fails to attend and to serve in accordance with the summons issued in pursuance of such orders shall be liable to the same penalties as may be imposed upon jurors for non-attendance under the Juries Act, Cap. 128.

56.—(1) The Commissioner of Police shall cause a sufficient number of police officers to attend all sittings of the Court for the purpose of assisting in the preservation of order and for the keeping of prisoners in custody at every sitting of the Court in the exercise of its criminal jurisdiction.

(2) All such officers shall obey the orders of any judge.

(3) The Commissioner of Police may regulate vehicular and other traffic of all kinds around the court building in any district so as to prevent or lessen noises which render difficult the transaction of the business of the Court, and for this purpose may make an issue any order or orders to be effective during any sitting of the Court.

Attendance of jurors at special sitting.

Attendance of police at sittings.

(4) Every person who fails to comply with any order of the Commissioner of Police made for the purposes of subsection (3) shall be guilty of an offence and, on summary conviction thereof, be liable to a fine not exceeding fifty dollars.

57.—(1) There shall be a vacation of the Court in every year for a term not exceeding six weeks, the exact dates of which shall be annually fixed by the Chief Justice, with the approval of the Minister, by Order published in the *Gazette*.

Vacation and holidays.

(2) Nothing in this section contained shall operate to prevent,

- (a) any sitting of the Court in the exercise of its criminal, appellate, insolvency or admiralty jurisdictions; or
- (b) the transaction of urgent business in chambers; or
- (c) the hearing in open Court of any action, cause or matter,

if the Chief Justice for some special reason so directs, during the period fixed as the vacation of the Court as aforesaid.

(3) Notwithstanding anything contained in this Act or any other law, the Court shall,

11 of 2003.

- (a) hold sittings on Saturdays;
- (b) not hold sittings on Sundays and public and bank holidays as defined by the Holidays Act, Cap. 289.

58.—(1) Any judge may, during the vacation, deliver judgment or make an order in any cause or matter then awaiting the decision of the Court.

Delivery of judgment in vacation.

(2) Every judgment delivered or order made under this section shall have the same force and effect as if it had been delivered or made during the ordinary sitting of the Court by the judge whose judgment it is.

59. The registry shall be open throughout the year, except on Sundays and public and bank holidays as defined by the Holidays Act, Cap. 289, for the transaction subject to rules of court of the general legal business of the Court.

General business of the Court.
27 of 1985.
11 of 2003.

PART VI

Practice and Procedure

Regulation of practice and procedure in the several jurisdictions of the Court.

60. The practice and procedure of the Court,

- (a) in its general civil jurisdiction, shall be regulated by this or any other Act or by rules of court and where no provision is made, by the practice and procedure in the High Court of Justice in England;
- (b) in its criminal jurisdiction shall, subject to this Act and to any other Act or rules of court, be the practice and procedure in criminal cases tried on indictment or on information filed in the Queen's Bench Division of the High Court of Justice in England;
- (c) in its appellate jurisdiction, shall be regulated by this or any other Act or by rules of court; and
- (d) in its admiralty jurisdiction, shall be in accordance with the Colonial Courts of Admiralty Act 1890, c. 27, and the rules for vice-admiralty courts in Her Majesty's possessions abroad approved by Her late Majesty's Order in Council bearing the date the twenty-second day of August, one thousand eight hundred and eighty-three or any rules made in amendment thereof or in substitution therefor.

Judges' Rules 964.
15 of 1967.

61.—(1) Notwithstanding anything contained in this or in any other Act, until the Chief Justice shall so direct, the Court in the exercise of its criminal jurisdiction shall not be obliged to follow the revised edition of the Judges' Rules (which came into force in England and Wales on 27th January 1964). In any such directions the Chief Justice may prescribe that the said Rules shall be followed subject to such modifications as may be stated in the directions.

(2) Notwithstanding subsection (1) of this section, the Judges Rules, being guidelines for the interviewing of persons and obtaining statements

from them while in police custody, published on the 29th day of May, 2000, shall be given full force and effect and be judicially noticed in Belize.

62.—(1) Subject to rules of court, the Court or a judge may refer to an official or special referee for inquiry or report any question arising in any cause or matter, other than a criminal proceeding by the State.

Reference for report.

(2) The report of an official or special referee may be adopted wholly or partially by the Court or a judge, and if so adopted, may be enforced as a judgment or order to the same effect.

63. In any cause or matter, other than a criminal proceeding by the State,

Reference for trial.

- (a) if all the parties interested who are not under disability consent;
- (b) if the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot in the opinion of the Court or a judge conveniently be made before a jury or conducted by the Court through its other ordinary officers; or
- (c) if the question in dispute consists wholly or in part of matters of account,

the Court or a judge may at any time order the whole cause or matter, or any question or issue of fact arising therein, to be tried before a special referee or arbitrator respectively agreed on by the parties, or before an official referee or officer of the Court.

64.—(1) In all cases of reference to an official or special referee or arbitrator, the official or special referee or arbitrator shall be deemed to be an officer of the Court, and subject to rules of court shall have such authority, and conduct the reference in such manner, as the Court or a judge may direct.

Powers and remuneration of referees and arbitrators.

(2) The report or award of an official or special referee or arbitrator on any reference shall, unless set aside by the Court or a judge, be equivalent to a judgment of the Court.

(3) The remuneration to be paid to a special referee or arbitrator to whom any matter is referred under an order of the Court or a judge shall be determined by the Court or a judge.

Court to have powers as in references by consent.

65. The Court or a judge shall, in relation to references, have all such powers as are conferred by the Arbitration Act, Cap. 125 on the Court or a judge in relation to references by consent out of Court.

Statement of case pending arbitration.

66. A referee or arbitrator may at any stage of the proceedings under a reference, and shall, if so directed by the Court or a judge, state in the form of a special case for the opinion of the Court any question of law arising in the course of the reference.

Power of Court to impose terms as to costs.

67. An order made under this Act relating to trials by referees may be made on such terms as to the costs or otherwise as the Court or a judge thinks fit.

Saving for Government.

68. Nothing in this Act shall empower the Court or a judge to order any proceedings to which the Government is a party, or any question or issue in any such proceedings, to be tried before any special referee or arbitrator or before an official referee or other officer of the Court without the consent of the Minister, or shall affect the law as to costs payable by the Government.

Explanation of term "reference".

69. In the provisions of this Act relating to trials by referees, the expression "reference" means a reference under an order made by the Court or a judge under the said provisions.

Exercise of jurisdiction in summary procedure.

70.—(1) The jurisdictions, powers and authorities of the Court in respect of the actions mentioned in subsection (2) of this section, shall be exercised in accordance with the summary procedure hereinafter prescribed and regulated.

(2) All actions,

- (a) in which the debt or damages claimed or the value of the matter or thing in dispute does not exceed the sum of fifteen thousand dollars;
- (b) in which, in the case of the recovery of land, either the value of the land or the yearly rent payable in respect thereof does not exceed the sum of one thousand dollars; or
- (c) in which, in the case of an easement or licence, either the value of the land on, through, over or under which such easement or licence is claimed or the yearly rent reserved thereout does not exceed the sum of one thousand dollars, shall be instituted, heard and determined in accordance with that procedure.

71.—(1) The summary procedure of the Court shall be prescribed, defined and regulated by rules of court and shall include provisions relating to,

Prescribing summary procedure.

- (a) the institution of claims in all such actions;
- (b) the defences to claims made in all such actions;
- (c) the course and conduct of proceedings in all such actions and interlocutory procedure;
- (d) the hearing of all such actions and the judgments therein;
- (e) the issue and execution of all judgments and orders, and proceedings in aid of execution thereof; and
- (f) the fees and costs payable by and to the parties and all other and incidental matters and proceedings including any necessary procedure in the registry.

(2) No rule of court relating to the unlimited jurisdiction of the Court not declared to be part of the summary procedure shall apply to any

of the actions defined in section 70 (2) of this Act, unless specifically declared to be applicable thereto.

(3) There shall be no trial by jury in any case tried in accordance with the summary procedure of the Court.

Determination by summary procedure of action of tort commenced in the Court.

72.—(1) Where any action founded on tort is commenced in the Court, the defendant may, on an affidavit made by himself or by any person on his behalf by showing that the plaintiff has no visible means of paying the costs of the defendant should judgment not be entered in favour of the plaintiff, apply to the Court or a judge for an order that the action shall be proceeded with, heard and determined in accordance with the summary procedure of the Court.

(2) On any such application, the Court or judge, unless the plaintiff satisfies the Court or judge that he has such means as aforesaid, may, if the Court or judge having regard to all the circumstances of the case thinks fit to do so, make an order that unless the plaintiff within a time to be limited in the order give security for the defendant's costs to the satisfaction of the Court or a judge, the action shall be proceeded with, heard and determined in accordance with the summary procedure.

Service and Execution of Process

Persons by whom process may be served.

73.—(1) Any process in civil and criminal cases may be served by any one authorised by the Registrar to do so.

(2) "Process" in this Part includes all proceedings whatever involving service of any document on any party, witness or other person concerned in any of those proceedings and any step either before or after judgment in any civil action, cause or matter or in execution of any judgment or order therein.

(3) The authority from the Registrar to anyone appearing to have served any process aforesaid need not be proved, but anyone questioning the authority of that person shall be at liberty to prove the want of that authority.

(4) There shall be kept in the registry a correct list of persons who have been authorised by the Registrar to serve process, and anyone questioning the authority of any person to serve process, may produce a copy of that list, certified as a true copy by the Registrar, and if the name of the person does not appear therein he shall be held not to have been so authorised.

74. Every return or indorsation of service appearing to be signed by the marshal or by any person signing himself a person authorised to serve process, and made upon a certified copy of the process alleged to be served, shall be received as *prima facie* evidence that service of the process has been effected in accordance with the terms of that return or indorsation.

Return or indorsation of service.

75. If any person,

- (a) being a person authorised by law to serve process, wilfully makes any false statement in any return or indorsation of service or in any way acts fraudulently with respect to the service of any process; or
- (b) not being a person authorised by law to serve process, signs himself on any return or indorsation of service as a person authorised to serve process,

Person signing return of service falsely or without authority.

is guilty of a misdemeanour and, on conviction thereof, shall be liable to a term of imprisonment not exceeding two years.

76. The Registrar may authorise any person in writing to execute fiats issuing out of the registry and generally to carry out any process of execution thereon in any part of Belize in the same way as the marshal is by law authorised to do.

Fiats and their execution.

77. Warrants of arrest issued under this Act shall be addressed to and be executed by the marshal.

Execution of warrants of arrest.

78.—(1) Every non-commissioned police officer stationed in a district other than the Belize District shall have all the powers of the marshal for the purposes of serving any process, or executing any judgment of the

Service of process by non-commissioned police officer.

Court in its civil jurisdiction, or any other process which the law requires to be served or executed by the marshal.

(2) The term “district” used in this and in sections 79 and 80 of this Act, has the same meaning as that given to it by section 3 of the Interpretation Act, Cap. 1.

Procedure by Registrar.

79.—(1) When any process is to be served or any judgment executed by any non-commissioned officer of police, the Registrar shall forward the writ and by Registrar other necessary papers to the magistrate of the district wherein such non-commissioned police officer is stationed, who shall hand or forward them to the non-commissioned officer, for the necessary action.

(2) The Registrar shall, together with the writ and other papers, forward,

- (a) a list of the writ and other papers so forwarded, which, if it is correct, shall be initialed by the magistrate and returned to the Registrar;
- (b) an envelope addressed and, if necessary, stamped, for the return of the writ and other papers;
- (c) a form of the proper return or indorsation to be made on the writ or other document in question.

(3) The non-commissioned officer of police serving or executing such process in such district shall, after taking the necessary action, make the proper return or indorsation on the writ and return the same with any other relevant papers to the magistrate, who shall forthwith return them to the Registrar.

(4) All writs and other papers forwarded by any one of the officers mentioned in this section to any other of those officers may be forwarded by registered post.

Officers of Court in respect of particular duties.

80. All non-commissioned officers of police in the districts other than the Belize District shall be officers of the Court in respect of the several duties imposed upon them by this Act.

81.—(1) Subject to rules of court, a writ of subpoena *ad testificandum* or a writ of *subpoena duces tecum* or a writ of subpoena *ad testificandum et duces tecum* may issue out of the Court in the manner and form in which any such writ is issued in proceedings in the High Court of Justice in England to compel the attendance before any court, judge, justice or other judicature, or before any arbitrator or referee, or before any arbitrator or umpire appointed under the Arbitration Act, Cap. 125, or any other Act, of a witness wherever he may be within Belize.

Writ of subpoena.

(2) If any person served in any cause or matter with any writ of *subpoena* refuses or neglects to attend the Court as a witness, or to produce any document or documents in his possession, custody or power or to attend the Court as a witness and produce any document or documents in his possession, custody or power, pursuant to any such *subpoena*, the Court or a judge may punish such person in a summary way by a fine not exceeding two hundred dollars or by imprisonment for any term not exceeding three months.

(3) Nothing contained in this section shall affect or abridge the right of any party in such cause or matter to recover any special damages such party sustains by reason of the person served with any subpoena failing to attend the Court as a witness, or to produce such document or documents or to attend the Court as a witness and produce such document or documents pursuant to any such *subpoena*.

82. The Court or a judge may award a writ of *habeas corpus ad testificandum* for bringing up any prisoner detained in any gaol or prison before any court, judge, justice or other judicature, or before any arbitrator or referee, or before any arbitrator or umpire appointed under the Arbitration Act, Cap. 125, or any other Act, for examination as a witness in any cause or matter, civil or criminal, whatever, which now is, or hereafter may be, depending or to be inquired or determined in or before such court, judge, justice or other judicature, referee, arbitrator or umpire.

Writ of *habeas corpus ad testificandum*.

83.—(1) The Court or a judge may, in any case where it or he may see fit to do so upon application by affidavit, issue a warrant or order for bringing up by any prisoner or person confined in any gaol, prison or place, under any sentence or under commitment for trial or otherwise, before

Compelling attendance of witness by warrant or order.

any court, judge, justice or other judicature, or before any arbitrator or referee, or before any arbitrator or umpire appointed under the Arbitration Act, Cap. 125, or any other Act, for examination as a witness in any cause or matter, civil or criminal whatever, which now is, or hereafter may be, depending or to be inquired into or determined in or before such court, judge, justice or other judicature, referee, arbitrator or umpire.

(2) The person so required by any such warrant or order to be so brought before such court, judge, justice or other judicature, referee, arbitrator or umpire, shall be so brought under the same care and custody, and be dealt with in like manner in all respects, as a prisoner required by any writ of *habeas corpus* awarded by the Court to be brought before any court, judge, justice or other judicature, or before any arbitrator or referee, or before any arbitrator or umpire appointed under the Arbitration Act, Cap. 125, or any other Act, for examination as a witness in any cause or matter depending before such court, judge, justice or other judicature, referee, arbitrator or umpire, is now by law required to be dealt with.

Writs of *subpoena*, etc., rules.

84. Rules of court may be made regulating the application for issue, service application for and proof of service, of any writ, warrant or order mentioned in sections 81, 82 and 83 of this Act.

Allowances to witnesses in civil cases.

85. The Court may, in civil proceedings, order and allow to all persons in civil examined or detained as witnesses such sum or sums of money as seems reasonable, as well for defraying the expenses of such witnesses as for affording them compensation for their trouble and loss of time, or such sum or sums of money may be fixed by rules of court.

Party on whose behalf witness called to pay allowance.

86. All sums of money allowed under section 85 of this Act, shall be paid by the party on whose behalf the attendance of the witness is ordered and shall be recoverable as ordinary costs of suit, if the Court so directs.

Fees and Costs

Fees and costs to be prescribed by rules of court.

87.—(1) The fees and costs payable and allowable in the Court shall be regulated by rules of court and, where provision is not made by those rules, the existing tariffs and regulations as to fees and costs shall remain in force.

(2) Subject to section 88 and to rules of court, the costs of and incidental to any proceeding in the Court shall be in the discretion of the Court or judge.

88. No costs shall be allowed to a successful plaintiff in any action brought by him in the Court which might have been heard in a district court unless the Court is of opinion that the action was one which it was expedient to bring in that manner and certifies accordingly.

Disallowance of costs in certain cases.

89. The fees payable for arrests and apprehensions of the person shall belong to the marshal making the arrests and apprehensions.

Fees for arrests and apprehensions.

90.—(1) Subject to subsection (2) of this section, all fees in respect of proceedings taken in the Court shall be paid at the registry in the mode required by any Act, rule or order.

Place of payment of fees.
27 of 1960.

(2) The Minister may direct that all fees payable in respect of proceedings taken in the Court in the Northern District or Southern District, shall be paid at the office of the magistrate in Corozal or in Stann Creek, as the case may be, and in that case such fees shall be accounted for in manner provided by that order.

91.—(1) There shall be kept in the registry a cash fee book in which shall be entered every fee received therein, and such cash fee book shall be in the form established by the Accountant General with the approval of the Minister.

Keeping of cash fee book.

(2) The cash fee book shall be subject to such check and audit as may be prescribed by the Minister.

92.—(1) Within one week after 30th June and 31st December in each year the Registrar shall deposit with the Financial Secretary a list of all moneys, the proceeds of sales of property under execution, of which all the installments have been paid up, and what moneys have remained unclaimed for three months and upwards prior to each of those dates.

Furnishing of half-yearly lists of unclaimed moneys.

(2) At the time of depositing the list, the Registrar shall pay over all moneys mentioned therein to the Financial Secretary, and shall cause the list to be published in the *Gazette* and to be re-published in like manner at the expiration of one month thereafter.

(3) The receipt of the Accountant General, in a book to be kept for that purpose, shall be a sufficient acquaintance, discharge and release to the Registrar for all moneys paid over by him to the Accountant General under this Act.

93. All moneys advertised under section 92 of this Act, which remain unclaimed for a remaining period of five years from the time when they came to the hands of the Registrar shall become and be part and parcel of the Consolidated Revenue and all right, title and interest of every person in and to them shall be statute barred,

Provided that nothing in this section shall operate to preclude any person who has a moral claim to such unclaimed money from applying by petition to the Minister for payment of the whole or any part thereof, and if the Minister considers it just and equitable that such application be granted he may, with the approval of the National Assembly, order that the whole of the said sum or any part thereof shall be paid out to that person.

94. Any failure on the part of the Registrar to comply with any of the requirements of this Act relating to unclaimed moneys shall render him liable on summary conviction to a fine not exceeding five hundred dollars.

95.—(1) The Chief Justice may, by himself or with the concurrence of the other judges, from time to time make rules of court under this Act for the following purposes,

- (a) regulating and prescribing the procedure, including the method of pleading, and the practice to be followed in the Court in all civil and criminal causes and matters whatever in or with respect to which the Court has for the time being jurisdiction, including the procedure and practice in interpleaders and the procedure and practice to be followed in the registry, the forms to be used, the fees of Court, the costs of attorneys-at-law, the duties of the officers of the Court and the powers of commissioners other than those conferred by this Act, and any matters incidental or relating to any such procedure or practice, including, but without prejudice to the generality of the foregoing provision,

Effect of moneys remaining unclaimed for five years.

Default of Registrar.

Power to make rules of court.

- the manner in which, and the time within which, any applications which under this or any other Act are to be made to the Court shall be made;
- (b) regulating and prescribing the procedure on appeals from any inferior court or person to the Court or the Chief Justice and the procedure in connection with the transfer of proceedings from any inferior court to the Court;
 - (c) regulating, subject to this Act, the sittings of the Court and of the judges thereof, whether in Court or in chambers;
 - (d) prescribing what part of the business which may be transacted, and of the jurisdictions which may be exercised, by judges of the Court in chambers may be transacted or exercised by the Registrar or other officers of the Court;
 - (e) regulating any matters relating to the costs of proceedings in the Court;
 - (f) regulating and prescribing the procedure and practice to be followed in the Court in cases in which the procedure or practice is regulated by enactments in force immediately before the commencement of this Act or by the provisions of this Act re-enacting any such enactments;
 - (g) repealing any enactments which relate to matters with respect to which rules are made under this section;
 - (h) prescribing in what cases trials in the Court in the exercise of its civil jurisdiction are to be tried with a jury and in what cases they are to be tried without a jury;
 - (i) regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given, in any proceedings or on any application in connection with, or at any stage of any proceedings;

Proclamation.
2 of 1927.

- (j) regulating or making provision with respect to any other matters which are now regulated, or with respect to which provision is now made, by the Supreme Court Rules, 1926, or any other rules of court made under any Supreme Court Act hitherto in force, or any amendment thereof, or by any rules or regulations so in force with respect to practice and procedure in matrimonial causes and matters or with respect to applications and proceedings relating to legitimacy declarations.

(2) No rule of court which may involve an increase of expenditure out of public funds shall be made except with the concurrence of the National Assembly but the validity of a rule of court shall not in any proceedings in the Court be called in question either by the Court or by any party to the proceedings on the ground only that it was a rule to which the concurrence of the National Assembly was necessary and that the National Assembly did not concur or is not expressed to have concurred in the making thereof.

(3) Rules of court made under this section shall apply to all proceedings by or against the State.

(4) Wherever in any Act it is provided that rules of court may be made for any purpose or that any practice and procedure shall be regulated by “rules of court”, such rules of court shall be made by the rule-making authority established under, and in accordance with, this section.

(5) No such rules or orders shall have any force or effect until the same are laid before and approved by the Minister, and subject to negative resolution by the National Assembly, they shall come into operation on such day as may be provided in such rules and orders or, if not so provided, on such day as the Minister may by Order appoint.

(6) All such rules and orders shall be laid before the National Assembly within ten days next after the same are approved or, if the National Assembly is not then sitting, at the first session thereof following approval of such rules and orders.

96. The Supreme Court Rules 1926, Proclamation No. 2 of 1927, and any amendment in force thereof at the commencement of this Act shall, notwithstanding the repeal of the Supreme Court Act, Cap. 153, C. L. 1924, remain in operation until the annulment thereof, in whole or in part, by any rules made under this Act.

Saving of the Supreme Court Rules, 1926..

PART VII

Provisions Relating to Districts

97. The Chief Justice, or another judge of the Court, shall attend every sitting of the Court.

Officers required to attend sittings. 15 of 1964.

98.—(1) The duties of making proclamations and of acting as Usher and Crier and all other duties of attendance on the Court shall be performed during the sittings of the Court in the Northern District or in the Southern District by a non-commissioned police officer, nominated for that purpose by the Commissioner of Police with the approval of the Chief Justice.

Usher and Crier, Northern District or Southern District. 27 of 1960.

(2) Where any such non-commissioned officer is from any cause unable to be present the Court may direct any officer of the Court in the public service below the rank of the Registrar, to discharge, without additional remuneration, all the duties which the non-commissioned officer is required to perform under this section.

99.—(1) The Registrar shall convey to the Court House in Corozal Town and there keep in safe custody all such records, documents and books as may be required at every sitting of the Court in the Northern District, and after the termination of every such sitting, he shall re-convey such records, documents and books to the registry in Belize City without delay.

Conveyance of records to and from Northern District and Southern District. 27 of 1960.

(2) The Registrar shall convey to the Court House in Dangriga and there keep in safe custody all such records, documents and books as may be required at every sitting of the Court in the Southern District, and after the termination of every such sitting, he shall re-convey such records, documents and books to the registry in Belize City without delay.

Deputy registrar
for the Districts.

100.—(1) The Public Services Commission may appoint some fit and proper person as deputy registrar of the Court for the Northern District and for the Southern District respectively.

(2) The deputy registrar shall perform in that District such duties as may be assigned to him by the Registrar as well as the duties of marshal of the Court.

Drawing up of
judgment or order
in the Districts.
27 of 1960.

101.—(1) Every judgment or order of the Court made in the Northern District or in the Southern District shall, in the absence of the Registrar be drawn up by the deputy registrar for that District and when approved by the Court shall be signed by the deputy registrar and filed with the papers in the cause or matter kept at the registry in Belize City.

(2) Every such judgment or order shall be drawn up from the minutes of the court or otherwise and shall have the same effect and be as valid as if it was drawn up by the Registrar.

PART VIII

Contempt of Court

Punishment for
criminal contempt.

102.—(1) No punishment exceeding imprisonment for a term of three months or a fine of two hundred and fifty dollars shall be inflicted for criminal contempt where the contempt takes place in the face of the Court (as by some insult offered to a judge or judges, or by any interruption of the proceedings or otherwise) or where, although not committed in the face of the Court, it is calculated to obstruct, interfere with or improperly prejudice the administration of justice in proceedings pending in the Court.

(2) The Court may, in punishing by fine, order that the fine shall be paid within a definite time, not less than seven days after the date of the order, and that in default of payment the offender shall be imprisoned for any term not exceeding three months.

Right of appeal to
Court of Appeal.
30 of 1989.

103.—(1) An appeal shall lie to the Court of Appeal from any order or decision of the Supreme Court in the exercise of jurisdiction to punish for contempt of court (including criminal contempt).

(2) The Court of Appeal may reverse or vary the order or decision of the Supreme Court and make such other order as may be just, and without prejudice to the power of the Court of Appeal under the Court of Appeal Act, Cap. 90, or the rules made thereunder, provision may be made by rules of court for authorising the releasing on bail of an appellant under this section.

(3) In this section, “Supreme Court” includes a single judge when exercising jurisdiction to punish for contempt of court.

104. Anyone using or threatening violence, or using threatening or abusive language, to a juror in or near the building in which the Court is sitting, and anyone intentionally personating any juror by answering to his name when called, and anyone liable to serve on a common or special jury or as tales man, who does not answer to his name when called, or who withdraws himself from the Court without leave after appearance, shall be deemed to have committed a contempt in the presence of the Court and shall be subject to the like punishment.

Contempt of Court committed in presence of the Court.

105. Subject to sections 102, 103 and 104 of this Act, the Court shall have the same powers as regards punishments for all contempt, whether criminal or otherwise, as are possessed by the High Court of Justice in England, and the practice and procedure shall be as nearly as possible the same as the practice and procedure in that Court in like case.

Extent of powers of Court touching contempt.

106. All fines and penalties to be paid under any order in any contempt of court proceedings shall be paid into the Consolidated Revenue Fund.

Disposal of fines.

106A—(1) Notwithstanding any other law or rule of practice to the contrary but without prejudice to the power of Court to punish for contempt in accordance with Part 53 of the Supreme Court (Civil Procedure Rules, 2005, made in Statutory Instrument No. 75 of 2005, by way of committal and seizure of assets, every person, whether in Belize or elsewhere, who knowingly disobeys or fails to comply with an injunction, or an order in the nature of an injunction, issued by the Court (whether such injunction was issued before or after 31st day of March, 2010, shall be guilty of an offence and shall be tried summarily in the Supreme Court by a judge sitting alone without a jury, on a criminal information and complaint laid

Criminal contempt of court. 18 of 2010. 26 of 2010.

under subsection (2) of this section, and in every such case, any rule of court relating to the unlimited jurisdiction of the Court shall apply.

(2) A complaint of an offence under subsection (1) of this section may be laid by the Attorney-General or the aggrieved party or a police officer not below the rank of an Inspector.

(3) A person guilty of an offence under subsection (1) of this section, shall be punished on conviction,

- (a) in the case of a natural person, with a fine which shall not be less than fifty thousand dollars but which may extend to two hundred and fifty thousand dollars, or with imprisonment for a term which shall not be less than five years but which may extend to ten years, or with both such fine and term of imprisonment, and in the case of a continuing offence, with an additional fine of one hundred thousand dollars for each day the offence continues,

26 of 2010. Provided that where a natural person who is convicted of an offence under this section shows that the extenuating circumstances (as described in subsection (3a) of this section) exist in his or her case, a court may, in lieu of imposing the penalties specified above, impose a fine of not less than five thousand dollars and not more than ten thousand dollars, and in default of payment of such fine, a term of imprisonment of not less than one year and not more than two years;

- (b) in the case of a legal person or other entity (whether corporate or un-incorporate), with a fine which shall not be less than one hundred thousand dollars but which may extend to five hundred thousand dollars, and in the case of a continuing offence, with an additional fine of three hundred thousand dollars for each day the offence continues.

26 of 2010. (3A) For the purpose of the *proviso* to subsection (3)(a) of this section, the expression “extenuating circumstances” means where,

- (a) the convicted person has previously been a law abiding person and has no criminal record;
- (b) the offence was committed through sheer ignorance of the consequences of his or her conduct; and
- (c) the imposition of full penalties prescribed in subsection (3) of this section, would cause grave hardship to him or her and his or her family.

(4) Every person, whether in Belize or elsewhere who,

- (a) directly or indirectly, instigates, commands, counsels, procures, solicits, advises or in any manner whatsoever aids, facilitates or encourages the commission of an offence under subsection (1) of this section; or
- (b) knowing that an injunction has been issued by the court, does any act the effect of which would be to disregard such injunction, whether such injunction was issued before or after 31st day of March, 2010,

shall be guilty of abetting the said offence and shall be punished in a like manner as if he or she commits that offence, and the penalties prescribed in subsection (3) of this section shall apply accordingly.

(5) Where an offence under this section is committed by a body of persons, whether corporate or un-incorporate, every person who, at the time of the commission of the offence, acted in an official capacity for or on behalf of such body of persons, whether as shareholder, partner, director, manager, advisor, secretary or other similar officer, or was purporting to act in any such capacity, shall be guilty of an offence and punished accordingly, unless he or she adduces evidence to show the offence was committed without his or her knowledge, consent or connivance.

(6) Notwithstanding anything to the contrary contained in any other law, the offence created by this section shall be investigated, tried, judged and punished by the Court regardless of whether the offence occurred

in Belize or in any other territorial jurisdiction, or whether or not the offender was present in Belize or elsewhere, but without prejudice to extradition, where applicable, in accordance with the law.

(7) For the avoidance of doubt, it is hereby declared that this section shall have effect regardless of whether the injunction referred to in this section was issued before or after the 31st day of March, 2010.

(8) Without prejudice to the generality of the foregoing provisions, the Court shall have jurisdiction,

18 of 2010.

- (a) to issue an injunction against a party or arbitrators (or both) restraining them from commencing or continuing any arbitral proceedings (whether cited in Belize or abroad), or an injunction against a party restraining it from commencing or continuing any proceedings for the enforcement of an arbitral award (whether in Belize or abroad), where it is shown (in either case) that such proceedings are or would be oppressive, vexatious, inequitable or would constitute an abuse of the legal or arbitral process;
- (b) to void and vacate an award made by an arbitral tribunal (whether in Belize or abroad) in disregard of or contrary to any such injunction.

(9) In addition to the modes of service prescribed in the Supreme Court (Civil Procedure) Rule, 2005, made in Statutory Instrument No. 75 of 2005, notice of an injunction issued by the court, or of an application for such injunction, or of any order associated therewith (whether such injunction or order was issued before or after the 31st day of March, 2010), may be served by registered post, fax, courier service or a notice in the *Belize Gazette* (as may be appropriate in the circumstances of each case), regardless of whether the person against whom the injunction or order was issued, or against whom the application for such injunction or order was issued or against whom the application for such injunction or order was made, be present or resident within or outside Belize, and for this purpose, no leave of the court for serving the injunction, notice or order, as the case may be, outside Belize shall be required notwithstanding anything to the contrary contained in any other law or rule of practice.

(10) Where the offence created by this section was committed outside Belize, the information and complaint for such offence shall be laid in the Central District of the Supreme Court.

(11) A person charged with an offence under this section, may be tried in his or her absence if the court is satisfied that such person was given at least 21 days' notice of the charge and the date, time and place of the trial and that he or she had a reasonable opportunity of appearing before the court but has failed to do so.

(12) The notice referred to in subsection (11) of this section, may be served personally, or by registered post, or by a notice in the *Belize Gazette*, as may be appropriate in the circumstances of each case.

(13) No person shall be liable to be prosecuted for an offence under this section if he or she has already been punished for the same offence under Part 53 of the Supreme Court (Civil Procedure) Rules 2005, made in Statutory Instrument No. 75 of 2005, or *vice versa*.

(14) In this Act, the word "person" shall have the meaning ascribed to it in section 3 of the Interpretation Act, Cap. 1.

(15) Subject to the forgoing provisions of this section, the Attorney-General may, if he or she considers necessary, make rules for giving better effect to the provisions of this section, and all such rules shall be subject to negative resolution.

(16) Subject to the provisions of this section and any rules made by the Attorney-General under subsection (15), the rules contained in the Schedule thereto shall apply to the trial on criminal information and complaint laid under this section.

26 of 2010.

PART IX

Appellate Jurisdiction

Right of appeal from decision of inferior court.

107. Pursuant to section 24 of this Act, any person dissatisfied with any decision of an inferior court may appeal to the Court subject to the conditions and regulations prescribed by this Act and by any rules of court,

Provided that no appeal shall lie to the Court in the following cases,

- (a) where a party in the inferior court confessed or admitted the truth of the accusation or the correctness of the claim, as the case may be, brought against him;
- (b) where imprisonment is adjudged for failure to comply with an order for the payment of money, for the finding of sureties, for the entering into any recognisance, or for the giving of any security;
- (c) where in a civil case before decision both parties agree in writing, to be signed by themselves or by their attorneys-at-law, that the decision of the inferior court shall be final;
- (d) where by virtue of any law now or which may hereafter be in force the accused has specially consented to an adjudication of his case by the inferior court;
- (e) where it is provided by any statute that no appeal shall lie from the decision of an inferior court in any particular case.

Regulating appeal from decision of inferior court.

108.—(1) Every appeal from a decision of an inferior court shall be heard and determined by the Court, and the practice and procedure of the Court in cases of appeal under this section shall be in accordance with this or any other Act relating to appeals from inferior courts and any rules of court.

- (2) Rules of court may make provisions regulating, *inter alia*,
- (a) the giving of notice of, and security for, prosecuting, the appeal;
 - (b) the recording of the appeal and the obtaining of a copy of the proceedings and the reasons for the inferior court's decision;
 - (c) the lodging of the grounds of appeal;
 - (d) the manner of setting forth the grounds of appeal and the signing of the notice of appeal and the grounds of appeal;
 - (e) the transmission of the record of appeal to the Registrar;
 - (f) the application for special leave to appeal after lapse of time for appeal;
 - (g) the procedure on default in prosecution of appeal;
 - (h) the time, place and order of hearing of the appeal;
 - (i) the procedure at the hearing of the appeal;
 - (j) the re-hearing of the case before the Court and the calling of witnesses before the Court;
 - (k) the transmission and publication of judgments or orders;
 - (l) the awarding of costs;
 - (m) the taxation and payment of costs;
 - (n) the enforcement of judgments or orders;

- (o) the fees and costs payable by and to the parties; and
- (p) such other matters as may be incidental to the appeal.

Court to have control of security.

109. The Court shall have full control over any security given for an appeal from the decision of any inferior court and may enforce the same summarily by order or may cancel or mitigate the forfeiture of such security, either generally or upon such terms as to the Court seem equitable and just and no security shall be enforced without an order of the Court.

Provisions to apply to cases between the Government and the subject.

110. This Part shall apply to cases between the Government and the citizen,

Provided that when the State, or any officer on behalf of the State or the Government in his official capacity, is an appellant, neither the Government nor the State nor that officer shall be liable to give security for prosecuting the appeal, but if the State or the Government or that officer fails to prosecute such appeal, or if the decision appealed from is confirmed, then the opposite party may recover his costs in the manner provided in such cases for the recovery of costs against the State or the Government.

Available grounds of appeal.

111. The following grounds of appeal and no other may be taken, namely, that,

- (a) the inferior court had no jurisdiction in the matter, but it shall not be competent for the Court to entertain that ground of appeal unless objection to the jurisdiction of the inferior court was formally taken at some time during the progress of the case and before the decision was pronounced;
- (b) the inferior court exceeded its jurisdiction in the matter;
- (c) the magistrate was personally interested in the matter;
- (d) the magistrate acted corruptly or maliciously in the matter, or took extraneous matter into consideration;
- (e) the decision was obtained by fraud;

- (f) the cause had been already heard or tried and decided by, or forms the subject of a hearing or trial pending before, some competent tribunal;
- (g) evidence was wrongly rejected, or inadmissible evidence was wrongly admitted, by the inferior court, and in the latter case there was not sufficient evidence to sustain the decision;
- (h) the decision was unreasonable or could not be supported having regard to the evidence;
- (i) the decision was erroneous in point of law;
- (j) the decision was based on a wrong principle or was such that the inferior court viewing the circumstances reasonably could not properly have so decided;
- (k) some specific illegality, other than hereinbefore mentioned, substantially affecting the merits of the case, was committed in the course of the proceedings therein or in the decision; or
- (l) the sentence was unduly severe or lenient.

112.—(1) Where any person has filed an appeal to the Court against a decision of an inferior court, the appeal shall not by itself result in the suspension of the decision under appeal, but the appellant may, within the time prescribed for filing such appeal, apply to the inferior court which made the decision under appeal, for stay of execution of any judgment appealed from (whether civil or criminal), pending the determination of such appeal.

Appeal not to operate as stay of execution.
7 of 2011.

(2) Before hearing the application for stay made pursuant to subsection (1) of this section, the inferior court shall give its reasons for the decision under appeal and shall supply copies thereof to both the appellant and the respondent, such reasons to be given no later than seven days from the date of the application for stay of execution.

(3) If the application for stay is refused by the inferior court, or the inferior court fails to give its reasons for the decision under appeal within the time specified in subsection (2) of this section, the appellant may apply to the Court for appropriate relief.

(4) Where the appellant has been sentenced to imprisonment by the inferior court, nothing contained in subsections (1) to (3) of this section, shall prejudice his right to apply to the Court for bail pending appeal; and in every such case, the provisions of the Crime Control and Criminal Justice Act, Cap. 102, (as amended) pertaining to the grant of bail to an accused person shall *mutatis mutandis* apply.

9 of 2008.

(5) Where the inferior court orders the payment of a sum of money by way of tax, duty, rate or charge arising under the Income and Business Tax Act, Cap. 55, the General Sales Tax Act, Cap. 63, the Land Tax Act, Cap. 58, the Stamp Duty Act, Cap. 64, the Town Property Tax Act, Cap. 65, the Trade Licencing Act, Cap. 66, or any other enactment, rule or regulation imposing a tax, duty, rate or charge, an appeal shall not result in the suspension of the decision under appeal, and the entire amount ordered to be paid by the inferior court (including any penalty and interest) shall be paid before any such appeal or review is entertained or determined by the court; but where any such appeal or review results in nil or less tax, duty, rate or charge being payable by the taxpayer than that ordered by the inferior court, the excess tax, duty, rate or charge paid by the taxpayer shall, subject to any further appeal by either party to a higher court, be promptly refunded to the taxpayer with interest thereon from the date of payment of such excess tax, duty, rate or charge until the date of such refund, at such rate of interest as may be determined by the Court to be fair and reasonable.

26 of 1992.

(6) Where the decision under appeal involves the forfeiture of a vehicle, vessel or aircraft, it shall be lawful for the Government or any person duly authorised by it to use such vehicle, vessel or aircraft during the pendency of the appeal,

26 of 1992.

Provided that where the appeal is determined in favour of the appellant and the Court orders the restoration to him of such vehicle, vessel or aircraft, the Court may award such compensation to the appellant as may

appear to it just and proper for the use, if any, by the Government of such vehicle, vessel or aircraft, having regard to the period of use and the condition of the vehicle, vessel or aircraft, disregarding deterioration, if any, by natural process.

(7) For the purpose of subsection (2) of this section, in every case where the inferior court orders the forfeiture of a vehicle, vessel or aircraft, it shall, on the advice of a technician appointed by it after consultation with the Commissioner of Transport, the Ports Commissioner or the Director of Civil Aviation, as the case may be, make an assessment of the value and condition of such vehicle, vessel or aircraft.

113.—(1) In any case where the Director of Public Prosecutions is of the opinion that justice requires that a decision of an inferior court which is subject to appeal should be brought by way of review before the Court, he may, on a motion *ex parte* made at any time within three months after the pronouncement of the decision, apply to the Court for an order that the decision be brought before the Court by way of review.

Review of application of the Director of Public Prosecutions.

1 of 1969.

(2) Where the Court grants an order for the review, there shall be served on each party to the cause within fourteen days a certified copy of the order and of the grounds for review.

(3) On a review the Court shall have the same powers as on an appeal.

(4) If on a review the decision is modified or reversed no action shall be brought against anyone in respect thereof except with the express permission of the Court.

(5) On any application for an order of review or on any review the Court may, if it thinks fit, and shall on the application of the Director of Public Prosecutions or any party to the cause, send for the record of the inferior court containing the decision which it is sought to review and may peruse such record.

14 of 1968.

1 of 1969.

114. On the hearing, it shall not be competent for the appellant to go into, or to give evidence of, any other grounds of appeal than those set forth in his notice of grounds of appeal, unless the Court otherwise orders on any terms it deems just.

Limitation of hearing by grounds of appeal.

Objection of form to grounds of appeal.

115. On the hearing, no objection to any defect in the form of stating any ground of appeal shall be allowed, and no objection to the reception of evidence adduced pursuant to section 119 of this Act, which is offered in support grounds of any ground of appeal shall prevail, unless the Court is of opinion that the ground of appeal is so imperfectly or incorrectly set forth as to be insufficient to enable the respondent to inquire into the subject of the statement and to prepare for the hearing, but the Court may, if it thinks fit, cause the ground of appeal to be forthwith amended upon the terms and conditions, if any, the Court thinks just.

Objection of form to information or conviction.

116.—(1) If, on the hearing, any objection is made on account of any defect or in a complaint or information, or on account of any omission or mistake in the drawing up of a conviction or order, and if it is shown, to the satisfaction of the Court, that sufficient grounds were in proof before the inferior court which made the conviction or order to have authorised the drawing up thereof free from that omission or mistake, the Court shall amend the complaint or information, or the conviction or order, and proceed thereafter as if the defect, omission or mistake had not existed.

(2) Nothing in this section shall affect section 114 of this Act .

Defects in proceedings under appeal.

117. On an appeal no objection shall be taken or allowed to any proceeding in an inferior court for any defect or error which might have been amended by that Court, or to any complaint, summons, warrant or other process to or of that Court, for any alleged defect therein in substance or in form, or for any variance between any complaint or summons and the evidence adduced in support thereof in that Court,

Provided that if any error, defect or variance mentioned in this section appears to the Court at the hearing of an appeal to be such that the appellant has been thereby deceived or misled, the Court may either refer the cause back to the inferior court with directions to re-hear and determine it, or reverse the decision under appeal, or may make any other order for disposal of the cause which justice requires.

Error or defect in notice of appeal or recognizance.

118. No objection shall be taken or allowed on appeal to any notice of which is in writing, or to any recognizance entered into under this Act for the due prosecution of the appeal, for any alleged error or defect

therein, but if the error or defect appears to the Court to be such that the respondent on the appeal has been thereby deceived or misled, the Court may amend it and, if it is expedient to do so, may also adjourn the further hearing of the appeal, the amendment and the adjournment, if any, being made on any terms the Court thinks just.

119.—(1) The Court may, in any case where it considers it necessary,

Power of the Court with regard to new evidence.

- (a) direct that a case be re-heard before the Court itself on some day to be fixed in that behalf, and any person may be called as a witness, whether he gave evidence before the inferior court or not;
- (b) order that the evidence of a particular witness or witnesses be adduced before the Court then or on some day to be fixed in that behalf, whether that witness or those witnesses gave evidence before the inferior court or not; or
- (c) remit the cause to the inferior court to take the evidence of any witness or witnesses, whether that witness or those witnesses gave evidence before the inferior court or not, and in that case either direct the inferior court to adjudicate afresh after taking the evidence subject to such directions in law, if any, as the Court thinks fit to give, or may direct it, after taking the evidence, to report specific findings of fact for the information of the Court, the cause on any such reference, so far as may be practicable and necessary, being so dealt with as if it were being heard in the first instance.

(2) Whenever any person is required to give evidence under this section he may be summoned or produced in the same manner, and remunerated at the same rate, and be subject to the same pains, penalties and liabilities for non-attendance as are provided in respect of witnesses summoned to attend at the hearing or trial of a civil cause before the Court.

Power of the Court generally.

120.—(1) The Court may,

- (a) affirm, modify, amend or reverse, either in whole or in part, the decision made by the inferior court with reference to the cause, or may render any decision which the inferior court ought to have made;
- (b) remit the cause with the opinion of the Court thereon to the inferior court for hearing, judgment or execution, or may originate its own decision thereon and enforce the same according to the practice of the Court; or
- (c) make any other order for disposal of the cause which justice requires,

Provided that the Court may, if of opinion that a different sentence should have been passed, quash the sentence passed by the inferior court and pass such other sentence warranted by law, whether more or less severe, in substitution therefor as the Court thinks should have been passed.

(2) Every order made by the Court on appeal shall have the same effect, and may be enforced in the same manner, as if it were a decision of the inferior court made in the first instance.

Decisions to be reduced to writing.

121. The decision of the Court shall be reduced into writing and shall set forth the reasons therefor.

Application to the Court to compel magistrate to entertain complaint.

122. Wherever a magistrate refuses to entertain a complaint or information relating to a summary conviction offence, the person aggrieved by the refusal may obtain from the magistrate a copy of the entry in the record book relating to the refusal, and may, on giving to the magistrate not less than three days' previous notice in writing thereof, make application to the Court for an order on the magistrate to entertain, hear and determine the complaint or information and, if the Court sees fit to make the order, the magistrate shall entertain, and thereafter hear and determine, the complaint or information in due course of law.

123.—(1) Wherever a magistrate or a justice of the peace refuses to do any act relating to the duties of his office, the person requiring the act to be done may apply to the Court on motion supported by affidavit of the facts for an order calling upon the magistrate or justice, and also upon the person to be affected by the act, to show cause why the act should not be done.

Application to Court to compel magistrate or justice to do act.

(2) If, after proof of due service of the order, good cause is not shown against it, the Court may make it absolute and the magistrate or justice, upon being served with the order absolute, shall obey it and do the act required, and the costs of the proceedings shall be in the discretion of the Court.

(3) No action or proceeding whatever shall be commenced or prosecuted against the magistrate or justice for having obeyed the order and done the act thereby required.

(4) Nothing in this section shall be construed to be in derogation of the powers conferred by section 122 of this Act.

124. Any notice or other document required to be served or transmitted under this Act relating to appeals from inferior courts may be served or transmitted by registered post or may be served by delivering or leaving it at the last known place of abode of the party to be served.

Service of documents.

125. In this Part, “magistrate” includes an *alcalde* or deputy *alcalde* acting in under Part VII of the Inferior Courts Act, Cap. 94.

Definition of “magistrate” in this Part.

126. Nothing contained in this Part shall be construed to interfere in criminal cases with the Governor-General’s prerogative of pardon.

Saving of Governor-General’s prerogative of pardon.

127. Nothing in this Act shall affect any appeals from inferior courts to the Court pending at the commencement of this Act.

Pending appeals.

128. The power conferred by section 95 to make rules of court shall be deemed to include the power to make rules of court for any of the purposes of this Part.

Rules.

PART X

Matrimonial Causes and Matters

Grounds of petition for divorce.
29 of 1985.

129.—(1) A petition for divorce may be presented to the Court either by the husband or the wife on the ground that the respondent,

- (a) has, since the celebration of the marriage, committed adultery;
- (b) has deserted the petitioner without cause for a period of at least three years immediately preceding the presentation of the petition;
- (c) has, since the celebration of the marriage, treated the petitioner with cruelty; or
- (d) is incurably of unsound mind and has been continuously under care and treatment for a period of at least five years immediately preceding the presentation of the petition,

and by the wife on the ground that her husband has, since the celebration of the marriage, been guilty of rape, sodomy or bestiality.

29 of 1985.

(2) Notwithstanding the provisions of subsection (1) of this section, a petition for divorce may be presented to the Court by either party to a marriage on the grounds that the marriage between them has broken down irretrievably, and that they have been living separately for at least three years immediately preceding the presentation of the petition.

Definition of “care and treatment” in relation to insanity.

130. For the purposes of section 129 of this Act, a person of unsound mind shall be deemed to be under care and treatment while he is detained in pursuance of any order or inquisition made under any Act for the time being in force and not otherwise.

Restriction on petitions for divorce during first three years after marriage.

131.—(1) No petition for divorce shall be presented to the Court unless at the date of the presentation of the petition three years have passed since the date of the marriage,

Provided that a judge may, upon application being made to him in accordance with rules of court, allow a petition to be presented before three years have passed on the ground that the case is one of exceptional hardship suffered by the petitioner or of exceptional depravity on the part of the respondent, but if it appears to the Court, at the hearing of the petition, that the petitioner obtained leave to present the petition by any misrepresentation or concealment of the nature of the case, the Court may, if it pronounces a decree *nisi*, do so subject to the condition that no application to make a decree absolute shall be made until after the expiration of three years from the date of the marriage, or may dismiss the petition, without prejudice to any petition which may be brought after the expiration of the said three years upon the same, or substantially the same, facts as those proved in support of the petition so dismissed.

(2) In determining any application under this section for leave to present a petition before the expiration of three years from the date of the marriage, the judge shall have regard to the interest of any children of the marriage and to the question whether there is reasonable probability of a reconciliation between the parties before the expiration of the said three years.

(3) Nothing in this section shall be deemed to prohibit the presentation of a petition based upon matters which have occurred before the expiration of three years from the date of the marriage.

132.—(1) On a petition for divorce presented by the husband or in the answer of a husband praying for divorce the petitioner or respondent, as the case may be, shall make the alleged adulterer a co-respondent unless he is excused by the Court on special grounds from so doing.

Provisions as to making adulterer co-respondent.

(2) On a petition for divorce presented by the wife the Court may, if it thinks fit, direct that the person with whom the husband is alleged to have committed adultery be made a respondent.

133.—(1) On a petition for divorce it shall be the duty of the Court to inquire, so far as it reasonably can, into the facts alleged and whether there has been any connivance or condonation on the part of the petitioner and whether any collusion exists between the parties and also to inquire into any countercharge which is made against the petitioner.

Duty of Court on presentation of petition.

- (2) If the Court is satisfied on the evidence that,
- (a) the case for the petitioner has been proved;
 - (b) where the ground of the petition is adultery, the petitioner has not in any manner been accessory to, or connived at, or condoned, the adultery, or where the ground of the petition is cruelty, the petitioner has not in any manner condoned the cruelty; and
 - (c) the petition is not presented or prosecuted in collusion with the respondent or either of the respondents, the Court shall pronounce a decree of divorce, but if the Court is not satisfied with respect to any of the aforesaid matters, it shall dismiss the petition,

Provided that the Court shall not be bound to pronounce a decree of divorce and may dismiss the petition if it finds that the petitioner has during the marriage been guilty of adultery or if, in the opinion of the Court, the petitioner has been guilty,

- (i) of unreasonable delay in presenting prosecuting the petition;
- (ii) of cruelty towards the other party to the marriage;
- (iii) where the ground of the petition is adultery or cruelty, of having without reasonable excuse deserted, or having without reasonable excuse wilfully separated himself or herself from the other party before the adultery or cruelty complained of; or
- (iv) where the ground of the petition is adultery or unsoundness of mind or desertion, of such wilful neglect or misconduct as has conducted to the adultery or unsoundness of mind or desertion.

134. In any case in which, on the petition of a husband for divorce, the alleged adulterer is made a co-respondent or in which, on the petition of a wife for divorce, the person with whom the husband is alleged to have committed adultery is made a respondent, the Court may, after the close of the evidence on the part of the petitioner, direct the co-respondent or the respondent, as the case may be, to be dismissed from the proceedings if the Court is of opinion that there is not sufficient evidence against him or her.

Dismissal of respondent or co-respondent from proceedings.

135. If in any proceedings for divorce the respondent opposes the relief sought, in the case of proceedings instituted by the husband, on the ground of his adultery, cruelty or desertion or, in the case of proceedings instituted by the wife, on the ground of her adultery, cruelty or desertion, the Court may give to the respondent the same relief to which he or she would have been entitled if he or she had presented a petition seeking such relief.

Relief to respondent on petition for divorce.

136. In the case of any petition for divorce or for nullity of marriage,

Intervention by Attorney-General in petition for divorce, etc.

- (a) the Court may, if it thinks fit, direct all necessary papers in the matter to be sent to the Attorney General who shall argue before the Court any question in relation to the matter which the Court thinks to be necessary or expedient to have fully argued, and the Attorney General shall be entitled to charge the costs of the proceedings as part of the expenses of his office;
- (b) any person may at any time during the progress of the proceedings or before the decree *nisi* is made absolute give information to the Attorney General of any matter material to the due decision of the case, and the Attorney General may thereupon take such steps as he considers necessary or expedient;
- (c) if in consequence of any such information or otherwise the Attorney General suspects that any parties to the petition are or have been acting in collusion for the

purpose of obtaining a decree contrary to the justice of the case, he may, after obtaining the leave of the Court, intervene and subpoena witnesses to prove the alleged collusion.

Provisions as to costs where Attorney General intervenes or shows cause.

137.—(1) Where the Attorney General intervenes or shows cause against a decree *nisi* in any proceedings for divorce or for nullity of marriage, the Court may make such order as to the payment by other parties to the proceedings of the costs incurred by him in so doing or as to the payment by him of any costs incurred by any of the said parties by reason of his so doing, as may seem just.

(2) So far as the reasonable costs incurred by the Attorney General in so intervening or showing cause are not fully satisfied by any order made under this section for the payment of his costs, he shall be entitled to charge the difference as part of the expenses of his office, and the judge may, if he thinks fit, order that any costs which under any order made by the Court under this section the Attorney General pays to any parties shall be deemed to be part of the expenses of his office.

Decree *nisi* for divorce or nullity of marriage.

138.—(1) Every decree for a divorce or for nullity of marriage shall, in the first instance, be a decree *nisi* not to be made absolute until after the expiration of six months from the pronouncing thereof, unless the Court by general or special order from time to time fixes a shorter time.

(2) After the pronouncing of the decree *nisi* and before the decree is made absolute, any person may, in the prescribed manner, show cause why the decree should not be made absolute by reason of the decree having been obtained by collusion or by reason of material facts not having been brought before the Court, and in any such case the Court may make the decree absolute, reverse the decree *nisi*, require further inquiry or otherwise deal with the case as the Court thinks fit.

(3) Where a decree *nisi* has been obtained, whether before or after the passing of this Act, and no application for the decree to be made absolute has been made by the party who obtained the decree, then, at any time after the expiration of three months from the earliest date on which that party could have made such an application, the party against whom the

decree *nisi* has been granted shall be at liberty to apply to the Court and the Court shall, on such application, have power to make the decree absolute, reverse the decree *nisi*, require further inquiry or otherwise deal with the case as the Court thinks fit.

139.—(1) As soon as any decree for divorce is made absolute, either of the parties to the marriage may, if there is no right of appeal against the decree absolute, marry again as if the prior marriage had been dissolved by death or, if there is such a right of appeal, may so marry again, if no appeal is presented against the decree, as soon as the time for appealing has expired or, if an appeal is so presented, as soon as the appeal has been dismissed,

Re-marriage of divorced persons.

Provided that it shall not be lawful for a man to marry the sister or half-sister of his divorced wife or of his wife by whom he has been divorced during the lifetime of the wife, or the divorced wife of his brother or half-brother or the wife of his brother or half-brother who has divorced his brother during the lifetime of the brother or half-brother.

(2) No Minister of the Christian religion shall be compelled to publish the banns of matrimony or to solemnise the marriage of any person whose former marriage has been dissolved by a judicial decree, where the other party to such former marriage is still living, nor shall any Minister be compelled to permit the use of any church or chapel under his control for publishing any such banns or solemnising the marriage of any such person, nor shall any such Minister be liable to any suit, proceeding or penalty for refusing to publish any such banns or for refusing to solemnise any such marriage or for refusing to permit the use of any such church or chapel for any such purposes aforesaid.

(3) No Minister of the Christian religion shall be liable to any suits, proceedings or penalties for publishing any such banns or solemnising the marriage of any such person aforesaid or for permitting the use of any such church or chapel for any of the purposes aforesaid,

Provided that nothing in this Act shall relieve any such Minister from any ecclesiastical proceedings or censure to which by reason of his publishing any such banns or solemnising any such marriage or

permitting the use of any such church or chapel for any of the purposes aforesaid he is or from time to time hereafter may be liable according to the doctrine, practice, usage or rules of any such religion.

Decree of judicial separation.

140.—(1) A petition for judicial separation may be presented to the Court either by the husband or the wife on any grounds on which a petition for divorce might have been presented, or on the ground of failure to comply with a decree for restitution of conjugal rights or on any ground on which a decree for divorce *a mensa et thoro* might have been pronounced in England immediately before the commencement of the Matrimonial Causes Act 1857, c. 85, and the foregoing provisions of this Part relating to the duty of the Court on the presentation of a petition for divorce, and the circumstances in which such a petition shall or may be granted or dismissed, shall apply in like manner to a petition for judicial separation.

(2) Where the Court in accordance with the said provisions grants a decree of judicial separation, it shall no longer be obligatory for the petitioner to cohabit with the respondent.

(3) The Court may, on the application by petition of the husband or wife against whom a decree for judicial separation has been made, and on being satisfied that the allegations contained in the petition are true, reverse the decree at any time after the making thereof, on the ground that it was obtained in the absence of the person making the application or, if desertion was the ground of the decree, that there was reasonable cause for the alleged desertion.

(4) The reversal of a decree for judicial separation shall not affect the rights or remedies which any other person would have had if the decree had not been reversed in respect of any debts, contracts or acts of the wife incurred, entered into or done between the date of the decree and of the reversal thereof.

Divorce proceedings after grant of judicial separation or other relief.

141.—(1) A person shall not be prevented from presenting a petition for divorce, or the Court from pronouncing a decree of divorce, by reason only that the petitioner had at any time been granted a judicial separation or an order by a summary jurisdiction court upon the same or substantially the same facts as those proved in support of the petition for divorce.

(2) On any such petition for divorce, the Court may treat the decree of judicial separation or the said order as sufficient proof of the adultery, desertion or other ground on which it was granted, but the Court shall not pronounce a decree of divorce without receiving evidence from the petitioner.

(3) For the purposes of any such petition for divorce, a period of desertion immediately preceding the institution of proceedings for a decree of judicial separation or an order under the said Act having the effect of such a decree shall, if the parties have not resumed cohabitation and the decree or order has been continuously in force since the granting thereof, be deemed immediately to precede the presentation of the petition for divorce.

142. A petition for restitution of conjugal rights may be presented to the Court either by the husband or the wife and the Court may, on being satisfied that the allegations contained in the petition are true and that there is no legal ground why a decree for restitution of conjugal rights should not be granted, make the decree accordingly.

Decree for restitution of conjugal rights.

143.—(1) A decree for restitution of conjugal rights shall not be enforced by attachment, but where the application is by the wife the Court, at the time of making the decree or at any time afterwards, may, in the event of the decree not being complied with within any time in that behalf limited by the Court, order the respondent to make to the petitioner such periodical payments as may be just, and the order may be enforced in the same manner as an order for alimony in proceedings for judicial separation.

Periodical payments in default of compliance with decree for restitution of conjugal rights.

(2) The Court may, if it thinks fit, order that the husband shall, to the satisfaction of the Court, secure to the wife the periodical payments, and for that purpose may direct that it shall be referred to the Registrar to settle and approve a proper deed or instrument to be executed by all necessary parties.

144.—(1) In addition to any other grounds on which a marriage is by law void or voidable, a marriage shall be voidable on the ground,

Additional grounds for decree of nullity.

- (a) that the marriage has not been consummated owing to the wilful refusal of the respondent to consummate the marriage;

- (b) that either party to the marriage was at the time of the marriage of unsound mind or a mental defective within the meaning of any Act relating to unsoundness of mind, or subject to recurrent fits of insanity or epilepsy;
- (c) that the respondent was at the time of the marriage suffering from venereal disease in a communicable form; or
- (d) that the respondent was at the time of the marriage, pregnant by some person other than the petitioner,

Provided that, in the cases specified in paragraphs (b), (c) and (d), the Court shall not grant a decree unless it is satisfied,

- (i) that the petitioner was at the time of the marriage ignorant of the facts alleged;
- (ii) that proceedings were instituted within a year from the date of the marriage; and
- (iii) that marital intercourse with the consent of the petitioner has not taken place since the discovery by the petitioner of the existence of the grounds for a decree.

(2) Any child born of a marriage avoided pursuant to paragraphs (b) or (c) of subsection (1) of this section, shall be a legitimate child of the parties thereto notwithstanding that the marriage is so avoided.

(3) Nothing in this section shall be construed as validating any marriage which is by law void, but with respect to which a decree of nullity has not been granted.

145.—(1) Any married person who alleges that reasonable grounds exist for supposing that the other party to the marriage is dead may present a petition to the Court to have it presumed that the other party is dead and to have the marriage dissolved, and the Court, if satisfied that such

Proceedings for decree of presumption of death and dissolution of marriage.

reasonable grounds exist, may make a decree of presumption of death and of dissolution of the marriage.

(2) In any such proceedings the fact that for a period of seven years or upwards the other party to the marriage has been continually absent from the petitioner, and the petitioner has no reason to believe that the other party has been living within that time, shall be evidence that he or she is dead until the contrary is proved.

(3) Sections 136 to 139 of this Act, shall apply to a petition and a decree under this section as they apply to a petition for divorce and a decree of divorce respectively.

146.—(1) When a petition for divorce or nullity of marriage has been presented, proceedings under section 152 or section 153 (3) of this Act, which respectively, confer power on the Court to order the provision of alimony and the securing of money for the benefit of the children, may, subject to and in accordance with rules of court, be commenced at any time after the presentation of the petition,

Time at which proceedings for alimony, etc., may be commenced in suits for divorce or nullity.

Provided that no order under the said section or under the said subsection, other than an interim order for the payment of alimony under section 152 of this Act, shall be made unless and until a decree *nisi* has been pronounced, and no such order, save in so far as it relates to the preparation, execution or approval of a deed or instrument and no settlement made in pursuance of any such order, shall take effect unless and until the decree is made absolute.

(2) Section 152 of this Act, shall apply in any case where a petition for divorce or judicial separation is presented by the wife on the ground of her husband's insanity as if for the references to the husband there were substituted references to the wife, and for the references to the wife there were substituted references to the husband, and in any such case and in any case where a petition for divorce, nullity or judicial separation is presented by the husband on the ground of his wife's insanity or mental deficiency, the Court may order the payment of alimony or maintenance under the said section to be made to such persons having charge of the respondent as the Court may direct.

Jurisdiction in the case of husband's change of domicile.

147. Where a wife has been deserted by her husband or where her husband has been deported from Belize under any law for the time being in force relating to the deportation of aliens, and the husband was immediately before the desertion or deportation domiciled in Belize, the Court shall have jurisdiction for the purpose of any proceedings under this Part, notwithstanding that the husband has changed his domicile since the desertion or deportation.

Jurisdiction where husband domiciled abroad and wife resident in Belize.
22 of 1966.

148. In proceedings for divorce or nullity of marriage, if the wife is resident in Belize and has been ordinarily resident therein for a period of three years immediately preceding the commencement of the proceedings, the Court shall have jurisdiction for the purpose of such proceedings notwithstanding that the husband is not domiciled in Belize.

Declaration of interests in property and alteration of property rights.
8 of 2001.

148A—(1) Notwithstanding anything contained in this Part or in any other interests in law, a husband or wife may during divorce proceedings make application to the court for a declaration of his or her title or rights in respect of property acquired by the husband and wife jointly during the subsistence of the marriage, or acquired by either of them during the subsistence of the marriage.

(2) In any proceedings under subsection (1) of this section, the court may declare the title or rights, if any, that the husband or the wife has in respect of the property.

(3) In addition to making a declaration under subsection (2) of this section, the court may also in such proceedings make such order as it thinks fit altering the interests and rights of either the husband or the wife in the property, including,

- (a) an order for a settlement of some other property in substitution for any interest or right in the property; and
- (b) an order requiring either the husband or the wife or both of them to make, for the benefit of one of them, such settlement or transfer of property as the court determines.

(4) The Court shall not make an order under subsection (3) of this section, unless it is satisfied that, in all the circumstances, it is just and equitable to make the order.

(5) In considering whether it is just and equitable to make an order under subsection (3) of this section, the court shall take into account the following,

- (a) the financial contribution made directly or indirectly by or on behalf of either the husband or the wife in the acquisition, conservation or improvement of the property, or otherwise in relation to the property;
- (b) the non-financial contribution made directly or indirectly by or on behalf of either the husband or the wife in the acquisition, conservation or improvement of the property, including any contribution made in the capacity of housewife, homemaker or parent;
- (c) the effect of any proposed order against the earning capacity of either the husband or the wife;
- (d) the age and state of health of both the husband and the wife, and the children born from the marriage (if any);
- (e) the non-financial contribution made by the wife in the role of wife and/or mother and in raising any children born from the marriage (if any);
- (f) the eligibility of either the husband or the wife to a pension, allowance, gratuity or some other benefit under any law, or under any superannuation scheme, and where applicable, the rate of such pension, allowance, gratuity or benefit as aforesaid;
- (g) the period when the parties were married and the extent to which such marriage has affected the education, training and development of either of them in whose favour the order will be made;

- (h) the need to protect the position of a woman, especially a woman who wishes to continue in her role as a mother;
- (i) any other fact or circumstances that in the opinion of the court, the Justice of the case requires to be taken into account.

(6) Where the court makes an order under subsection (3) of this section, it may also make such consequential orders in respect thereto, including orders as to sale or partition, and interim or permanent orders as to possession, and may further order that any necessary deed or instrument be executed, and that such documents of title to the property be produced or such other things be done as are necessary to enable the court's order to be carried out effectively, or that security be provided for the due performance of an order.

(7) Any order made by the court under this section shall be binding on the husband and the wife, but not on any other person.

148B—(1) Where a court is satisfied on an application by a person affected by an order made under section 148B of this Act, that the order was obtained by fraud, duress, the giving of false evidence or by the suppression of evidence, the court may, in its discretion, set aside the order, or make another order in substitution of the order.

(2) Subsection (7) of section 148A of this Act, shall apply in respect of an order made under subsection (1) of this section.

148C—(1) Any person affected by a final order made under section 148A or 148B of this Act, or by the setting aside of a final order under section 148B of this Act, may appeal against such order or setting aside of the order to the Court of Appeal, pursuant to subsection (1) (a) of section 14 of the Court of Appeal Act, Cap. 90.

(2) In the case of interlocutory orders, any person affected by such an order made under section 148A or 148B of this Act, or by the setting aside of such an order under section 148B of this Act, shall have recourse

Power to set aside orders altering property rights and interests.
8 of 2001.

Appeals.
8 of 2001.

in the matter to the Supreme Court in the first instance, but may appeal the decision of the Supreme Court made under this section to the Court of Appeal pursuant to subsection (1) of section 14 of the Court of Appeal Act, Cap. 90.

(3) The same procedure used in applying to the court or in appealing to the Court of Appeal in divorce proceedings shall as far as applicable be used for applications under section 148A to 148G of this Act.

148D In sections 148E to 148I of this Act, “common law union” or “union” means the relationship that is established when a man and woman who are not legally married to each other and to any other person cohabit together continuously as husband and wife for a period of at least five years.

Interpretation of phrases used in sections 148E to 148I.

148E—(1) Where the parties to a common-law union separate, then either party to the union may thereafter make application to the court for a declaration of that party’s title or rights in respect of property acquired by the parties or either of them during the subsistence of the union.

Declaration of interests in property and alteration of property rights in separation in common-law union.

(2) In any proceedings under subsection (1) of this section, between the parties to a common-law union in respect of the existing title or rights to property, the court may declare the title or rights, if any, that a party has in respect of the property.

(3) In addition to making a declaration under subsection (2) of this section, the court may also in such proceedings make such order as it thinks fit altering the interests and rights of the parties to the union in the property, including,

- (a) an order for a settlement of some other property in substitution for any interest or right in the property; and
- (b) an order requiring either or both parties to the union to make, for the benefit of the other party, such settlement or transfer of property as the court determines.

(4) The court shall not make an order under subsection (3) of this section unless it is satisfied that, in all the circumstances, it is just and equitable to make the order.

(5) In considering whether it is just and equitable to make an order under subsection (3) of this section, the court shall take into account the following,

- (a) the financial contribution made directly or indirectly by or on behalf of either party to the union in the acquisition, conservation or improvement of the property, or otherwise in relation to the property;
- (b) the non-financial contribution made directly or indirectly by or on behalf of either party to the union in the acquisition, conservation or improvement of the property, including any contribution made in the capacity of housewife, homemaker or parent;
- (c) the effect of any proposed order against the earning capacity of either party to the union;
- (d) the age and state of health of each of the parties to the union and the children born from the union (if any);
- (e) the eligibility of either party for a pension, allowance, gratuity or some other benefit under any law, or under any superannuation scheme, and where applicable, the rate of such pension, allowance, gratuity or benefit as aforesaid;
- (f) the duration of the union and the extent to which it has affected the education, training and development of the party to the union in whose favour the order will be made;
- (g) the need to protect the position of a woman, especially a woman who wishes to continue in her role as a mother;

- (h) the non-financial contribution made by the female party to the union in the role of companion and/or mother and in raising any children born from the union (if any);
- (i) any other fact or circumstance that, in the opinion of the court, the justice of the case requires to be taken into account.

(6) Where the court makes an order under subsection (3) of this section, it may also make such consequential orders in respect thereto, including orders as to sale or partition, and interim or permanent orders as to possession, and may further order that any necessary deed or instrument be executed, and that such documents of title to the property be produced or such other things be done as are necessary to enable the court's order to be carried out effectively, or that security be provided for the due performance of an order.

(7) Any order made by the court under this section shall be binding on the parties to the union, but not on any other person.

148F—(1) Where a court is satisfied on an application by a person affected by an order made under section 148E of this Act, the order was obtained by fraud, duress, the giving of false evidence or by the suppression of evidence, the court may in its discretion, set aside the order, or make another order in substitution of the order.

Power to set aside orders altering property rights and interests in separation in common-law union.

(2) Subsection (7) of section 148E of this Act, all apply in respect of an order made under subsection (1) of this section.

148G Any person affected by an order made under section 148E or 148F of this Act, or by the setting aside of an order made under section 148F of this Act, may appeal against such order or the setting aside of the order to the Court of Appeal, pursuant to subsection (1) (a) of section 14 of the Court of Appeal Act, Cap. 90, and the provisions of section 148E of this Act shall, *mutatis mutandis*, apply to such an appeal.

Appeals in separation in common-law union.

148H—(1) In cases where sections 148A to 148G of this Act apply, the court may on application by an interested party or on its own motion, set

Transfers of property to avoid court orders to be void.

aside any instrument transferring property from a spouse to a marriage to any other person, or from a party to a union to any other person, or may restrain the making of such an instrument or disposition by or on behalf of, or by the direction and in the interest of, such spouse or party to a union, which is made or is intended or proposed to be made to defeat an existing or anticipated order in any proceedings under the said sections, or which, irrespective of intention, is likely to defeat any such order.

(2) An instrument or disposition made contrary to subsection (1) of this section, is void.

Maintenance in respect of parties to a common-law union.

148I A party to a common-law union shall have the same rights as a spouse to a marriage, in respect of himself or the children born out of the union, if any, to apply to the courts, either during the subsistence of the union or upon the separation of the parties to the union, for maintenance, and any law now or hereafter in force in relation to maintenance in respect of spouses to a marriage shall, upon the commencement of this section, apply, with the necessary modifications, to a party to a common-law union.

Applicable law in proceedings under sections 147 to 148.
22 of 1966.

149. In any proceedings in which the Court has jurisdiction by virtue of section 147 or 148 of this Act, the issues shall be determined in accordance with the law which would be applicable thereto if both parties were domiciled in Belize at the time of the proceedings.

Declaration of legitimacy, etc.

150.—(1) Any person who is a natural-born citizen of Belize, or whose right to be deemed a natural-born citizen of Belize depends wholly or in part on his legitimacy or on the validity of any marriage, may, if he is domiciled in Belize or claims any real or personal estate situate in Belize, apply by petition to the Court for a decree declaring that the petitioner is the legitimate child of his parents, and that the marriage of his father and mother or of his grandfather and grandmother was a valid marriage or that his own marriage was a valid marriage.

(2) Any person who is so domiciled or claims as aforesaid, may apply to the Court for a decree declaring his right to be deemed a natural-born citizen of Belize.

(3) Applications under subsections (1) and (2) of this section, may be included in the same petition and on any such application the Court shall make such decree as the Court thinks just, and the decree shall be binding on Her Majesty and all other persons whatever,

Provided that the decree of the Court shall not prejudice any person,

- (a) if it is subsequently proved to have been obtained by fraud or collusion; or
- (b) unless that person has been cited or made a party to the proceedings or is the next-of-kin or personal representative of, or derives title under or through, a person so cited or made a party.

(4) A copy of every petition under this section and of any affidavit accompanying the petition shall be delivered to the Attorney General at least one month before the petition is presented or filed, and the Attorney-General shall be a respondent on the hearing of the petition and on any subsequent proceedings relating thereto.

(5) In any application under this section such persons shall, subject to rules of court, be cited to see proceedings or otherwise summoned as the court thinks fit, and any such persons may be permitted to become parties to the proceedings and to oppose the application.

(6) The provisions of this Act relating to matrimonial causes shall, so far as applicable, extend to any proceedings under this section.

(7) No proceedings under this section shall affect any final judgment or decree already pronounced or made by any Court of competent jurisdiction.

151.—(1) A husband may on a petition for divorce or for judicial damages, separation or for damages only claim damages from any person on the ground of adultery with the wife of the petitioner.

Damages.

(2) A claim for damages on the ground of adultery shall, subject to any enactment relating to trial by jury in the Court, be tried on the same principles and in the same manner as actions for criminal conversation were tried in England immediately before the commencement of the Matrimonial Causes Act 1857, c. 85, and this Part, with reference to the hearing and decision of petitions, shall so far as may be necessary apply to the hearing and decision of petitions on which damages are claimed.

(3) The Court may direct in what manner the damages recovered on any such petition are to be paid or applied, and may direct the whole or any part of the damages to be settled for the benefit of the children, if any, of the marriage, or as a provision for the maintenance of the wife.

Alimony.

152.—(1) The Court may, if it thinks fit, on any decree for divorce or nullity of marriage, order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum of money or annual sum of money for any term, not exceeding her life, as having regard to her fortune, if any, to the ability of her husband and to the conduct of the parties, the Court may think to be reasonable, and the Court may for that purpose order that it shall be referred to the Registrar to settle and approve a proper deed or instrument, to be executed by all the necessary parties, and may, if it thinks fit, suspend the pronouncing of the decree until the deed or instrument has been duly executed.

(2) In any such case as aforesaid the Court may, if it thinks fit, by order, either in addition to or instead of an order under subsection (1) of this section, direct the husband to pay to the wife during the joint lives of the husband and wife such monthly or weekly sum for her maintenance and support as the Court may think reasonable,

Provided that,

- (a) if the husband, after any such order has been made, becomes from any cause unable to make the payments, the Court may discharge or modify the order, or temporarily suspend the order as to the whole or any part of the money ordered to be paid, and subsequently revive it wholly or in part as the Court thinks fit; and

- (b) where the Court has made any such order as is mentioned in this subsection and the Court is satisfied that the means of the husband have increased, the Court may, if it thinks fit, increase the amount payable under the order.

(3) On any petition for divorce or nullity of marriage the Court shall have the same power to make interim orders for the payment of money by way of alimony or otherwise to the wife as the Court has in proceedings for judicial separation.

(4) Where any decree for restitution of conjugal rights or judicial separation is made on the application of the wife, the Court may make such order for alimony as the Court thinks just.

(5) In all cases where the Court makes an order for alimony, the Court may direct the alimony to be paid either to the wife or to a trustee approved by the Court on her behalf, and may impose such terms or restrictions as the Court thinks expedient, and may from time to time appoint a new trustee if for any reason it appears to the Court expedient to do so.

153.—(1) In any proceedings for divorce or nullity of marriage or judicial separation, the Court may from time to time, either before or by or after the final decree, make such provision as appears just with respect to the custody, maintenance and education of the children, the marriage of whose parents is the subject of the proceedings or, if it thinks fit, direct proper proceedings to be taken for placing the children under the protection of the Court.

Custody of children.

(2) On an application made in that behalf the Court may, at any time before final decree, in any proceedings for restitution of conjugal rights or, if the respondent fails to comply therewith, after final decree, make from time to time all such orders and provisions with respect to the custody, maintenance and education of the children of the petitioner and respondent as might have been made by interim orders if proceedings for judicial separation had been pending between the same parties,

(3) The Court may, if it thinks fit, on any decree of divorce or nullity of marriage, order the husband or, in the case of a petition for divorce by a wife on the ground of her husband's insanity, order the wife, to secure for the benefit of the children such gross sum of money or annual sum of money as the Court may think reasonable and the Court may for that purpose order that it shall be referred to the Registrar to settle and approve a proper deed or instrument to be executed by all necessary parties,

Provided that the term for which any sum of money is secured for the benefit of a child shall not extend beyond the date when the child will attain eighteen years of age.

154.—(1) In every case of judicial separation,

- (a) any property which is acquired by or devolves upon the wife on or after the date of the decree whilst the separation continues shall, if she dies intestate, devolve as if her husband had been then dead;
- (b) if alimony has been ordered to be paid and has not been duly paid by the husband he shall be liable for necessaries supplied for the use of the wife.

(2) In any case where the decree for judicial separation is obtained by the wife, any property to which she is entitled for an estate in remainder or reversion at the date of the decree, and any property to which she becomes entitled as executrix, administratrix or trustee after the date of the decree, shall be deemed to be property to which this section applies, and for the purpose aforesaid the death of the testator or intestate shall be deemed to be the date when the wife becomes entitled as executrix or administratrix.

155.—(1) Where a wife obtains a decree for judicial separation, the decree shall, so far as may be necessary for the protection of any person dealing with the wife, be valid and effectual until discharged, and the discharge or variation of the decree shall not affect any rights or remedies which any person would have had, if the decree had been discharged or varied, in respect of any debts, contracts or acts of the wife incurred, entered

Wife's property
in case of judicial
separation.

Protection of third
parties.

into or done during the period between the date of the decree and the discharge or variation thereof.

(2) Any person who, in reliance on any such decree as aforesaid, makes any payment to or permits any transfer or act to be made or done by the wife, shall, notwithstanding the subsequent discharge or variation of the decree, or the fact that the separation has ceased or has been discontinued, be protected and indemnified in the same way in all respects as if at the time of the payment, transfer or other act the decree were valid and still subsisting without variation in full force and effect, or the separation has not ceased or been discontinued, as the case may be, unless at that time that person had notice of the discharge or variation of the decree or that the separation had ceased or been discontinued.

156. The Court may from time to time vary or modify any order for the periodical payment of money made under this Act relating to matrimonial causes and matters either by altering the times of payment or by increasing or diminishing the amount, or may temporarily suspend the order as to the whole or any part of the money ordered to be paid, and subsequently revive it wholly or in part, as the Court thinks just.

Power to vary orders.

157. In every case in which any person is charged with adultery with any party to a suit or in which the Court may consider, in the interest of any person not already a party to the suit, that that person should be made a party to the suit, the Court may, if it thinks fit, allow that person to intervene upon such terms, if any, as the Court thinks just.

Power to allow intervention on terms.

158. Notwithstanding any rule of law to the contrary, the evidence of a husband or wife shall be admissible in any proceedings to prove that marital intercourse did or did not take place between them during any period.

Evidence of husband or wife admissible to prove marital intercourse.

159. In any proceedings for nullity of marriage, evidence on the question of sexual capacity shall be heard *in camera* unless in any case the judge is satisfied that in the interests of justice any such evidence ought to be heard in open Court.

Certain evidence in nullity proceedings to be *in camera*.

PART XI

Probate Causes and Matters

Grant of probate and letters of administration. 36 of 1963.

160. The Chief Justice or a judge shall deal with all matters relating to the granting or revocation of probates of wills and letters of administration of the real and personal property of deceased persons and of and in all non-contentious matters and causes testamentary and cases of intestacy whatever.

Proof of will in solemn form.

161. Any party interested in a will may compel, and any executor or party desiring or having execution of a will may have, proof thereof in solemn form in accordance with the practice now obtaining in the Probate Division of Her Majesty's High Court of Justice in England.

Certain decrees, etc., may be set aside.

162. The Court, upon sufficient cause being shown, may set aside any order or decree obtained on a default, upon such terms as to the payment of costs, or otherwise as may seem just.

Contested cases to be tried in open Court.

163. In any contested suit for probate or letters of administration the hearing and adjudication thereof shall be in open Court, and subject thereto, all other proceedings and business under this Part may, unless the Court otherwise directs, be transacted in chambers.

Probate, etc., may be granted to a person other than the one entitled.

164. Under special circumstances where it may appear to the Court to be just or expedient, probate or administration may be granted to some person other than the person ordinarily or by law entitled to such probate or administration.

Rules.

165.—(1) Provisions may from time to time be made by rules of court,

- (a) for giving effect to any Act relating to administration of estates of deceased persons in respect of both real and personal property;
- (b) for regulating the practice and procedure in probate and administration matters, including both non-contentious and contentious business;

- (c) for regulating the practice and procedure, including fees and costs, on, and incidental to, an application for sealing a probate or letters of administration granted by any Court in any part of the Commonwealth or Her Majesty's dominions or a British Court of Probate in a foreign country as provided for by any law.

(2) "Non-contentious business" consists of the issue of grants of probate and letters of administration when there is no contention as to the right thereto, including the passing of probates and administration through the Court in contentious cases when the contest is terminated, and all business of a non-contentious nature taken in Court in matters of testacy and intestacy, not being proceedings in any action, and also the business of lodging caveats against the grant of probate or administration.

(3) "Contentious business" includes all other probate and administration business of the Court, except the warning of caveats and rules of court may further provide what shall be deemed "contentious business."

PART XII

Miscellaneous

166. In any proceedings tried in the Court for the recovery of any debt or damages, the Court may, if it thinks fit, order that there shall be included in the sum for which judgment is given interest at such rate as it thinks fit on the whole or any part of the debt or damages for the whole or any part of the period between the date when the cause of action arose and the date of the judgment,

Power of Court to award interest on debts and damages.

Provided that nothing in this section shall,

- (a) authorise the giving of interest upon interest; or
- (b) apply in relation to any debt upon which interest is payable as of right whether by virtue of any agreement or otherwise; or

- (c) affect the damages recoverable for the dishonour of a bill of exchange.

Judgment debts to carry interest.

167. Every judgment debt shall carry interest at the rate of six *per centum per annum* from the time of entering up the judgment until the same is satisfied, and such interest may be levied under a writ of execution on such judgment.

Restriction on institution of vexatious actions.

168.—(1) If, on an application made by the Attorney General under this section, the Court is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings, whether in the Court or in any inferior court, and whether against the same person or against different persons, the Court may, after hearing that person or giving him an opportunity of being heard, order that no legal proceedings shall without leave of the Court or a judge thereof be instituted by him in any court, and such leave shall not be given unless the Court or judge is satisfied that the proceedings are not an abuse of the process of the Court and that there is *prima facie* ground for the proceedings.

(2) If the person against whom an order is sought under this section is unable on account of poverty to retain counsel, the Court shall assign counsel to him.

(3) A copy of any order made under this section shall be published in the *Gazette*.

Relief against forfeiture for non-payment of rent.

169. In the case of any action for a forfeiture brought for non-payment of rent, the Court or a judge thereof shall have power to give relief in a summary manner, and subject to the same terms and conditions in all respects as to payment of rent, costs and otherwise as could formerly have been imposed in the Court of Chancery in England, and if the lessee, his executors, administrators or assigns are so relieved they shall hold the demised premises according to the terms of the lease and without the necessity of any new lease.

Execution of instrument by order of Court.

170. Where any person neglects or refuses to comply with a judgment or order directing him to execute any transfer, conveyance, contract or other document, or to indorse any negotiable instrument, the Court may, on such terms and conditions, if any, as may be just, order that the transfer, conveyance, contract or other document shall be executed

or that the negotiable instrument shall be indorsed by such person as the Court may nominate for that purpose, and a transfer, conveyance, contract, document or instrument so executed or indorsed shall operate and be for all purposes available as if it had been executed or indorsed by the person originally directed to execute or indorse it.

171.—(1) Information in the nature of *quo warranto* are hereby abolished.

Abolition of information in the nature of *quo warranto*.

(2) In any case where any person acts in an office in which he is not entitled to act and an information in the nature of *quo warranto* would but for subsection (1) of this section have lain against him, the Court may grant an injunction restraining him from so acting and may, if the case so requires, declare the office to be vacant.

(3) No proceedings for an injunction under this section shall be taken by a person who would not immediately before the commencement of this Act have been entitled to apply for an information in the nature of *quo warranto*.

172. In the course of the trial of any action in Court, either with or without a jury, the same objections may be taken to the ruling, direction or judgment of the Court upon points of law or the reception or rejection of evidence, or upon all other points relating to the trial or to any motion or proceeding respecting the same, or to the pleadings and proceedings in any cause either before or after trial or to any judgment or execution, or in reference to any interlocutory or final proceedings whatever, as may be taken before the High Court or a judge in England and the Court or judge may be called upon at the time to make full note of the objection with a view to an appeal or otherwise.

Objections for the purpose of appeal.

173. Subject to any special disability to sue or be sued, any person, whether a foreigner or not, and whether a domiciled inhabitant of Belize or not, may take proceedings, or be proceeded against by action or other proceeding in the Court in its civil jurisdiction and the Court shall have full jurisdiction, power and authority to try, hear and determine the action or other proceeding and to proceed to a final judgment or order and execution therein.

Jurisdiction with respect to foreigners.

Procedure in case of imprisonment.

174.—(1) The return of the marshal or of the Chief Officer of any prison, to any writ of *habeas corpus* as to an arrest or detainer under any order of arrest or imprisonment by the Court, or under any judgment or order of detention for or during non-payment of any fine or penalty imposed by the Court, shall be deemed sufficient in law, if there appears in or is attached to the return a certificate by the Registrar setting forth the judgment or order by virtue of which the arrest or detainer was made.

(2) The Court shall have power to reduce or remit any fine or penalty imposed by it if the fine or penalty has not been already paid or satisfied.

Restriction on officer's purchase of property sold at execution.

175. No officer or person employed in any way whatever in the registry shall directly or indirectly or by the intervention of an agent or trustee or otherwise, purchase any property sold at execution, and if that officer or person purchases or is interested in the purchase of any property at an execution sale, he shall, upon proof thereof to the Public Services Commission, be dismissed from his office or employment,

Provided that nothing in this section contained shall prevent the officer or person from purchasing at execution sale any property which it is necessary for him to purchase in order to protect the interest of himself, his wife or his child.

Public Services Commission, Judicial and Legal Services Commissions.
15 of 1964.

176. The Judicial and Legal Services Section of the Public Services Commission, shall deal with the matters respectively set out in sections 8, 11, 100 (1) and 175 of this Act.

SCHEDULE

SUPREME COURT OF JUDICATURE ACT
 Rules on Criminal Information and
 Complaint Trial
 (Section 106A)

ARRANGEMENT OF RULES

RULE

1. Short title.
2. Criminal information and complaint form.
3. Presentation and sufficiency of criminal information.
4. Contents of criminal information and complaint.
5. Joinder of counts and proceedings.
6. Joinder of two or more accused persons.
7. Description of persons.
8. Description of documents.
9. General rule on description.
10. Filing of criminal information and complaint.
11. Trial judge to give directions.
12. Power of the trial judge.
13. Amendment of rules.

1. These rules may be cited as the Criminal Information and Complaints Rules.

Short title.

2.—(1) A criminal information and complaint may be in the following form,

Criminal information and complaint form.

The Queen v. **AB**

In the Supreme Court of Belize (Criminal Jurisdiction) District.

Criminal Information and Complaint filed by this _____ day of _____

AB is charged with the following crime,

Statement of crime

XX

Particulars of crime

XX

Name and Signature of the

Complainant

Sworn to , the----- day of-----20-----

Before me

Commissioner of the Supreme Court.

(2) Figures and abbreviations may be used in a criminal information and complaint for expressing anything which is commonly expressed thereby.

(3) A criminal information and complaint shall be sworn to before a Commissioner of the Supreme Court.

(4) A criminal information and complaint shall not be open to objection by reason only of any failure to comply with this rule.

3.—(1) Every criminal information and complaint shall contain and be sufficient if it contains a statement of the specific crime or crimes with which the accused person is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

(2) Notwithstanding any rule of law or practice to the contrary, a criminal information shall not be open to objection in respect of its contents if it is formed in accordance with these rules.

Presentation and sufficiency of criminal information.

4.—(1) The statement of crime shall describe the crime shortly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the crime, and shall contain a reference to the section of the Act under which the charge is laid.

Contents of criminal information and complaint.

(2) After the statement of the crime, particulars of it shall be set out in ordinary language, in which the use of technical terms shall not be necessary.

5.—(1) Subject to sub-rule (2) of these rules, any number of counts for the same crime may be joined in the same information and complaint and shall be sufficiently distinguished.

Joinder of counts and proceedings.

(2) Where there are more counts than one in a criminal information and complaint, each count may be treated as separate information and complaint.

(3) If the Court thinks it conducive to the ends of justice to do so, it may direct that the accused person be tried upon any one or more of the counts separately.

(4) Where an information and complaint contains more than one count, the counts shall be numbered consecutively.

6.—(1) Subject to sub-rule (2) of these rule, any number of persons may be charged in one criminal information and complaint and tried together for a crime which they are alleged to have jointly committed, or in which they, or any of them, are alleged to have participated by abetment or otherwise.

Joinder of two or more accused persons.

(2) The Court may, on application either on behalf of any of the accused persons or of the prosecutor, at any time, order that any of such persons shall be tried separately from all or any of the others.

7. The description or designation in a criminal information and complaint of the accused person or of any other person to whom reference is made therein, shall be such as is reasonably sufficient to identify him or her,

Description of persons.

without necessarily stating his or her correct name, or his or her abode, style, degree or occupation, and if, owing to the name of the person not being known, or for any other reason, it is impracticable to give that description or designation, such descriptions or designation shall be given as is reasonably practicable in the circumstances.

Description of documents.

8. Where it is necessary to refer to any document or instrument in a criminal information and complaint, it shall be sufficient to describe it by name or designation by which it is usually known, or by the purport thereof, without setting out any copy thereof.

General rule on description.

9. Subject to any other provisions of these rules, it shall be sufficient to describe any place, time, thing, matter, act or omission whatever, to which it is necessary to refer in any criminal information and complaint, in ordinary language in such a manner as to indicate with reasonable clearness that place, time, thing, matter, act or omission.

Filing of criminal information and complaint.

10.—(1) Every criminal information and complaint shall be filed in the Supreme Court Registry at least twenty-one (21) days before the date of trial of the accused person charged in such criminal information and complaint.

(2) The Registrar shall, at least fourteen (14) days before the day of trial, deliver or cause to be delivered to the accused person, or if the accused person is in custody, to the keeper of the prison, a certified copy of the criminal information and complaint.

(3) For the purpose of sub-rule (2) of these rules,

- (a) the delivery to the keeper of the prison of the certified copy may be made by transmitting it in a registered letter by post properly addressed to him;
- (b) if the accused person be out of Belize. the copy may be served by registered post, fax, courier service or a notice in the *Belize Gazette* (as may be appropriate in the circumstances of each case);

- (c) the receipt purporting to be given by an officer of the Post Office for the registered letter, or an employee of the courier service for the package sent by courier, shall be deemed *prima facie* evidence of the posting or delivery on the day stated therein;
- (d) a certificate signed by the Registrar, that a certified copy of a criminal information and complaint was duly sent in the manner aforesaid shall be deemed *prima facie* evidence that the copy reached the accused person charged in the criminal information and complaint.

11. Where a criminal information and complaint is filed in the Supreme Court Registry, the trial Judge shall, subject to section 106A of this Act and these Rules, give directions as to,

Trial judge to give directions.

- (a) the date of arraignment of the accused person;
- (b) the date and conduct of trial;
- (c) the disclosure of prosecution evidence to the accused person;
- (d) the reception of evidence, whether by witness statements or by *viva voce* testimony; and
- (e) any other matter pertaining to such trial.

12. Subject to the provisions of section 106A of this Act and these Rules, on a trial on criminal information and complaint, the trial Judge shall have like powers as to the attendance of the accused person and the witnesses, remanding an accused person in custody or admitting him or her to bail, adjournment of the trial from time to time, and all other matters, as if it were a trial on indictment.

Power of the trial judge.

13. These Rules may from time to time be amended by the Attorney General by rules made under section 106A (15) of this Act.

Amendment of rules.