**ANGUILLA**

# REVISED STATUTES OF ANGUILLA

## CHAPTER C160

# CROWN PROCEEDINGS ACT

Showing the Law as at 15 December 2010

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition consolidates Act 7/2010, in force 1 November 2010

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# CROWN PROCEEDINGS ACT

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# CROWN PROCEEDINGS ACT

PRELIMINARY

**Interpretation**

**1.** (1) In this Act—

"agent", when used in relation to the Crown, includes an independent contractor employed by the Crown;

"civil proceedings" include proceedings in the High Court or the Magistrate's Court for the recovery of fines and penalties;

"Her Majesty's aircraft" does not include aircraft belonging to Her Majesty otherwise than in right of Her Government in the United Kingdom;

"Her Majesty's ships" means ships of which the beneficial interest is vested in Her Majesty or which are registered as Government ships for the purposes of the Merchant Shipping Acts, 1894 to 1970, or which are for the time being demised or subdemised to or in the exclusive possession of the Crown, except that that expression does not include any ship in which Her Majesty is interested otherwise than in right of Her Government in the United Kingdom unless that ship is for the time being demised or subdemised to Her Majesty in right of Her said Government or in the exclusive possession of Her Majesty in that right;

"Magistrate's Court rules" includes rules made by the Governor in Council under section 277 of the Magistrate's Code of Procedure Act and pursuant to section 29;

"officer", in relation to the Crown, includes the Governor, a Minister, and any servant of Her Majesty in right of Her Government of Anguilla;

"order" includes a judgment, decree, rule, award or declaration;

"prescribed" means prescribed by rules made under section 29;

"proceedings against the Crown" includes a claim by way of set off or counterclaim raised in proceedings by the Crown;

"statutory duty" means any duty imposed by or under any Act or other law extending to (or having effect in) Anguilla.

(2) Any reference in Parts 3 and 4 to civil proceedings by or against the Crown, or to civil proceedings to which the Crown is a party, shall be construed as including a reference to civil proceedings to which the Attorney General or any officer of the Crown as such is a party, but the Crown is not for the purposes of Parts 3 and 4 deemed to be a party to any proceedings by reason only that they are brought by the Attorney General upon the relation of some other person.

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

(a) the Women's Royal Naval Service;

(b) the Queen Alexandra's Royal Naval Nursing Service; and

(c) any other organization established under the control of the Admiralty, the Army Council or the Air Council.

**References to include Magistrate's Court rules**

**2.** Any reference in this Act to the provisions of this Act shall, unless the context otherwise requires, include a reference to the rules of court and the Magistrate's Court rules made for the purposes of this Act.

## PART 1

## SUBSTANTIVE LAW

**Right to sue the Crown**

**3.** (1) Where after 30th June, 1956 any person has a claim against the Crown as defined in subsection (2), then, subject to this Act, the claim may be enforced as of right, and without the consent of the Governor, by proceedings taken against the Crown for that purpose in accordance with the provisions of this Act.

(2) The reference to a claim against the Crown in subsection (1) shall be construed as meaning a claim against the Government of Anguilla which, if this Act had not been passed, might have been enforced, subject to the consent of the Governor, in a suit instituted by the claimant as plaintiff against the Attorney General as defendant in accordance with the provisions of the Crown Suits Act, F.A. 10/1907, or might have been enforced by a proceeding provided by any other statutory provision.

(3) Any claim against the Crown made pursuant to any statutory provision enacted after 30th June, 1956, unless otherwise directed by any law, be likewise enforced as of right, and without the *fiat* of the Governor, by proceedings taken against the Crown in accordance with the provisions of this Act.

**Liability of the Crown in tort**

**4.** (1) Subject to the provisions of this Act, the Crown shall be subject to all those liabilities in tort to which, if it were a private person of full age and capacity, it would be subject—

(a) in respect of torts committed by its servants or agents;

(b) in respect of any breach of those duties which a person owes to his servants or agents at common law by reason of being their employer; and

(c) in respect of any breach of the duties attaching at common law to the ownership, occupation, possession or control of property;

but no proceedings shall lie against the Crown by virtue of paragraph (a) in respect of any act or omission of a servant or agent of the Crown unless the act or omission would apart from the provisions of this Act have given rise to a cause of action in tort against that servant or agent of his estate.

(2) Where the Crown is bound by a statutory duty that is binding also upon persons other than the Crown and its officers, then, subject to the provisions of this Act, the Crown shall, in respect of a failure to comply with that duty, be subject to all those liabilities in tort (if any) to which it would be so subject if it were a private person of full age and capacity.

(3) Where any functions are conferred or imposed upon an officer of the Crown as such either by any rule of the common law or by any law, and that officer commits a tort while performing or purporting to perform those functions, the liabilities of the Crown in respect of the tort shall be such as they would have been if those functions had been conferred or imposed solely by virtue of instructions lawfully given by the Crown.

(4) Any enactment that negatives or limits the amount of the liability of the Crown or an officer of the Crown in respect of any tort committed by the officer shall, in case of proceedings against the Crown under this section in respect of a tort committed by the officer, apply in relation to the Crown as it would have applied in relation to the officer if the proceedings against the Crown had been proceedings against the officer.

(5) No proceedings shall lie against the Crown by virtue of this section in respect of anything done or omitted to be done by any person while discharging or purporting to discharge any responsibilities of a judicial nature vested in him, or any responsibilities that he has in connection with the execution of judicial process.

(6) No proceedings shall lie against the Crown by virtue of this section in respect of any act, neglect or default of any officer of the Crown, unless that officer has been directly or indirectly appointed by the Crown and was at the material time paid in respect of his duties as an officer of the Crown wholly out of the Consolidated Fund or other government funds of Anguilla, or was at the material time holding an office in respect of which the Governor certifies that the holder thereof would normally be so paid.

*(Act 7/2010, s. 26)*

**Provisions as to industrial property**

**5.** (1) Where any servant or agent of the Crown infringes a patent, or infringes a registered trade mark, or infringes any copyright and the infringement is committed with the authority of the Crown, then, subject to the provisions of this Act, civil proceedings in respect of the infringement shall lie against the Crown.

(2) Nothing in subsection (1) or in any other provisions of this Act shall affect the rights of the Governor under section 29 of the Patents Act.

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

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

**6.** Where the Crown is subject to any liability by virtue of this Part, any law relating to indemnity and contribution shall be enforceable by or against the Crown in respect of the liability to which it is so subject as if the Crown were a private person of full age and capacity.

**Liability in connection with postal packets**

**7.** (1) Subject as hereinafter provided, no proceedings in tort shall lie against the Crown for anything done or omitted to be done in relation to a postal packet by any person while employed as a servant or agent of the Crown, nor shall any officer of the Crown be subject, except at the suit of the Crown, to any civil liability therefor.

(2) Proceedings shall lie against the Crown under this subsection in respect of loss of or damage to a registered inland postal packet in so far as the loss or damage is due to any wrongful act done or any neglect or default committed by a person employed as a servant or agent of the Crown while performing or purporting to perform his functions as such in relation to the receipt, carriage, delivery or other dealing with the packet, but—

(a) the amount recoverable in any proceedings under this subsection shall not exceed the market value of the packet in question (excluding the market value of any message or information which it bears) at the time when the cause of action arises;

(b) the amount recoverable in such proceedings shall not in any event exceed the maximum amount that, under the Post Office Rules, is available for compensating the persons aggrieved having regard to the fee paid in respect of the registration of the packet; and

(c) the Crown shall not be liable under this subsection in respect of any packet unless such conditions as are prescribed by the Post Office Rules in relation to registered inland postal packets have been complied with in relation to that packet.

For the purposes of any proceedings under this subsection, it shall be presumed, until the contrary is shown on behalf of the Crown, that the loss of or damage to the packet was due to some wrongful act done, or some neglect or default committed, by a person employed as a servant or agent of the Crown while performing or purporting to perform his functions as such in relation to the receipt, carriage, delivery or other dealing with the packet.

(3) No relief shall be available under subsection (2) except upon a claim by the sender or the addressee of the packet in question, and the sender or addressee of the packet shall be entitled to claim any relief available under the subsection in respect of the packet whether or not he is the person damnified by the injury complained of, and to give a good discharge in respect of all claims in respect of the packet under that subsection but, where the court is satisfied, upon an application by any person who is not the sender or addressee of the packet, that the sender and the addressee are unable or unwilling to enforce their remedies in respect of the packet under that subsection, the court may, upon such terms as to security for costs and otherwise as the court thinks just, allow that other person to bring proceedings under that subsection in the name of the sender or the addressee of the packet. Any reference in this subsection to the sender or addressee of the packet includes a reference to his personal representatives.

(4) Where by virtue of subsection (3) any person recovers any money or property that, apart from that subsection, would have been recoverable by some other person, the money or property so recovered shall be held on trust for that person.

(5) Post Office Rules may be made for prescribing the conditions to be observed for the purposes of this section in relation to registered inland postal packets.

(6) In this section—

"inland postal packet" means a postal packet that is posted in Anguilla for delivery at any place within Anguilla to the person to whom it is addressed;

"postal packet" has the same meaning as in the Post Office Act;

"sender", in relation to a postal packet, has such meaning as may be assigned to it by the Post Office Rules.

(7) Any reference in this section to a postal packet shall be construed as including a reference to the contents of the packet.

**Revival of provisions relating to the armed forces in Schedule 1**

**8.** (1) Subject to this section, the Governor may, with the approval of or on the instructions of the Secretary of State, by order—

(a) revive the effect of Schedule 1 for all purposes or for such purposes as may be described in the order; or

(b) where that Schedule has effect for the time being in pursuance of an order made by virtue of paragraph (a), provide for that Schedule to cease to have effect either for all the purposes for which it has effect or for such of them as may be so described.

(2) The Governor shall not make an order reviving the effect of Schedule 1 for any purposes unless it appears to him necessary or expedient to do so—

(a) by reason of any imminent national danger or of any great emergency that has arisen; or

(b) for the purpose of any warlike operation in any part of the world outside of Anguilla or of any other operations that are, or are to be, carried out in connection with the warlike activity of any persons in any such part of the world.

(3) Subject to subsection (4), an order under this section describing purposes for which the effect of Schedule 1 is to be revived, or for which that Schedule is to cease to have effect, may describe those purposes by reference to any matter whatever and may make a different provision for different cases, circumstances or persons.

(4) Nothing in any order under this section shall revive the effect of Schedule 1, nor provide for it to cease to have effect, in relation to anything suffered by a person in consequence of an act or omission committed before the date on which the order comes into force.

(5) The power to make an order under this section shall be exercisable by regulation.

(6) For the purpose of the application of subsection 1(2) of Schedule 1, a reference in this section to anything suffered by any person in consequence of any act or omission committed before a particular date shall include references to anything that would not, apart from this subsection, be regarded as suffered in consequence of an act or omission, but is suffered in consequence of the

nature or condition at a time before that date of any land, premises, ship, aircraft, hovercraft or vehicle or of any equipment or supplies.

(7) There shall be paid out of money provided by the Legislature any expenses incurred by a Minister or Government department in consequence of the provisions of this section.

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

**9.** (1) Nothing in this Part shall extinguish or abridge any powers or authorities that, if this Act had not been passed, would have been exercisable by virtue of the prerogative of the Crown, or any powers or authorities conferred on the Crown by any law and, in particular, nothing in this Part shall extinguish or abridge any powers or authorities exercisable by the Crown, whether in time of peace or of war, for the purpose of the defence of Anguilla or of training, or maintaining the efficiency of, any of the armed forces of the Crown.

(2) Where in any proceedings under this Act it is material to determine whether anything was properly done or omitted to be done in the exercise of the prerogative of the Crown, the Governor may, if satisfied that the act or omission was necessary for any such purpose mentioned in subsection (1), issue a certificate to the effect that the act or omission was necessary for that purpose, and the certificate shall, in those proceedings, be conclusive as to the matter so certified.

## PART 2

## JURISDICTION AND PROCEDURE

**Civil proceedings in the High Court**

**10.** (1) Subject to the provisions of this Act, all civil proceedings by or against the Crown mentioned in Schedule 2 are hereby abolished, and all civil proceedings by or against the Crown in the High Court shall be instituted and proceeded with in accordance with rules of court and not otherwise.

(2) In relation to any claim against the Crown in the High Court as a Colonial Court of Admiralty that falls within the jurisdiction of that Court as a prize court, the expression "rules of court" in this section means rules of court made under the provisions of the Prize Court Acts, 1894 to 1915.

**Civil proceedings in Magistrate's Court**

**11.** (1) Subject to the provisions of this Act and to any Act limiting the jurisdiction of the Magistrate's Court (whether by reference to the subject matter of the proceedings to be brought or the amount sought to be recovered in the proceedings or otherwise), any civil proceedings by or against the Crown may be instituted in the Magistrate's Court.

(2) Any proceedings by or against the Crown in the Magistrate's Court shall be instituted and proceeded with in accordance with the Magistrate's Court rules and not otherwise.

**Interpleader**

**12.** The Crown may obtain relief by way of interpleader proceedings, and may be made a party to such proceedings, in the same manner in which a subject may obtain relief by way of such

proceedings notwithstanding that the application for relief is made by the Bailiff, and all rules of court and Magistrate's Court rules relating to interpleader proceedings shall, subject to such modifications as may be prescribed, have effect accordingly.

**Parties to proceedings**

**13.** (1) Civil proceedings by the Crown may be instituted by the Attorney General but, where in any Act passed before 30th June, 1956 it is provided that any debt due to the Crown shall be sued for and recovered by a particular officer of the Crown, civil proceedings by the Crown for the recovery of such debt may be instituted by that officer.

(2) Civil proceedings against the Crown shall be instituted against the Attorney General.

(3) No proceedings instituted in accordance with this Part by an officer of the Crown or in the name of or against the Attorney General shall abate or be affected by any change in the person holding that office or holding the office of Attorney General.

**Service of documents**

**14.** All documents required to be served on the Crown for the purpose of or in connection with any civil proceedings by or against the Crown shall, where the proceedings by or against the Crown are brought in the name of an officer of the Crown other than the Attorney General, be served on that officer or on the Attorney General.

**Removal and transfer of proceedings**

**15.** (1) If in a case where proceedings are instituted against the Crown in the Magistrate's Court, an application in that behalf is made by the Crown to the Magistrate's Court, and there is produced to that court a certificate of the Attorney General to the effect that the proceedings may involve an important question of law, or may be decisive of other cases arising out of the same matter, or are for other reasons more fit to be tried in the High Court, the proceedings shall be removed into the High Court.

(2) Where any proceedings have been removed into the High Court on the production of such a certificate, and it appears to the court by whom the proceedings are tried that the removal has occasioned additional expense to the person by whom the proceedings are brought, the court may take account of the additional expense so occasioned in exercising its powers in regard to the award of costs.

**Nature of relief**

**16.** In any civil proceedings by or against the Crown the court shall, subject as hereinafter provided, have power to make all such orders as it has power to make in proceedings between subjects, and otherwise to give such appropriate relief as the case may require, but—

(a) where in any proceedings against the Crown any such relief is sought as might in proceedings between subjects be granted by way of injunction or specific performance, the court shall not grant an injunction or make an order for specific performance, but may in lieu thereof make an order declaratory of the rights of the parties; and

(b) in any proceedings against the Crown for the recovery of land or other property, the court shall not make an order for the recovery of the land or the delivery of the

property, but may in lieu thereof make an order declaring that the plaintiff is entitled as against the Crown to the land or property or to the possession thereof.

(2) The court shall not in any civil proceedings grant any injunction or make any order against an officer of the Crown if the effect of granting the injunction or making the order would be to give any relief against the Crown that could not have been obtained in proceedings against the Crown.

**Costs of civil proceedings to which the Crown is a party**

**17.** In any civil proceedings by or against the Crown, the costs of and incidental to the proceedings shall be awarded in the same manner and on the same principles as in cases between subjects, and the court shall have power to make an order for the payment of costs by or to the Crown accordingly.

**Appeals and stay of execution**

**18.** All enactments, rules of court and Magistrate's Court rules relating to appeals and stay of execution shall, with such modifications as may be prescribed, apply to civil proceedings by or against the Crown as they apply to proceedings between subjects.

**Scope of this Part**

**19.** (1) Subject to this section, any reference in this Part to civil proceedings by the Crown shall be construed as a reference to the following proceedings only—

(a) proceedings for the enforcement or vindication of any right or the obtaining of any relief that, if this Act had not been passed and the Crown Suits Act had not been repealed, might have been enforced or vindicated or obtained by any proceedings mentioned in section 1 of Schedule 2, or by an action at the suit of the Attorney General under the Crown Suits Act or by a particular officer of the Crown under any law;

(b) all such proceedings as the Crown is entitled to bring by virtue of this or any other Act, or any law;

and the expression "civil proceedings by or against the Crown" shall be construed accordingly.

(2) Subject to the provisions of this section, any reference in this Part to civil proceedings against the Crown shall be construed as a reference to the following proceedings only—

(a) proceedings for the enforcement or vindication of any right or the obtaining of any relief that, if this Act had not been passed and the Crown Suits Act had not been repealed, might have been enforced or vindicated or obtained by the proceedings mentioned in section 2 of Schedule 2 or by an action against the Attorney General under the Crown Suits Act;

(b) all such proceedings as any person is entitled to bring against the Crown by virtue of this or any other Act, or any law;

and the expression "civil proceedings by or against the Crown" shall be construed accordingly.

(3) Notwithstanding anything in subsections (1) or (2), the provisions of this Part shall not have effect with respect to any proceedings brought by the Attorney General on the relation of some other person or to proceedings in connection with any charitable trusts.

## PART 3

## JUDGMENTS AND EXECUTION

**Interest on debts, damages and costs**

**20.** (1) Section 6 of the Judgments Act (which provides that a judgment debt shall carry interest) shall apply to judgment debts due from or to the Crown.

(2) Where any costs are awarded to or against the Crown, interest shall be payable upon those costs unless the court otherwise orders, and any interest so payable shall be at the same rate as that at which interest is payable upon judgment debts due from or to the Crown.

**Satisfaction of orders against the Crown**

**21.** (1) Where in any civil proceedings by or against the Crown, or in connection with any arbitration to which the Crown is a party, any order (including an order for costs) is made by any court in favour of any person against the Crown, the proper officer of the court shall, on application in that behalf made by or on behalf of that person at any time after the expiration of 21 days from the date of the order or, in case the order provides for the payment of costs and the costs require to be taxed, at any time after the costs have been taxed, whichever is the later, issue to that person a certificate in the prescribed form containing particulars of the order but, if the court so directs, a separate certificate shall be issued with respect to the costs (if any) ordered to be paid to the applicant.

(2) A copy of any certificate issued under this section may be served by the person in whose favour the order is made upon the particular officer of the Crown concerned, or the Attorney General, as the case may be.

(3) If the order provides for the payment of any money by way of damages or otherwise, or of any costs, the certificate shall state the amount so payable, and it shall be lawful for the Governor by warrant under his hand to direct the amount appearing by the certificate to be due, to be paid to the person entitled thereto or to his solicitor together with the interest, if any, lawfully due thereon, but the court by which any such order is made or any court to which an appeal against the order lies may direct that, pending an appeal or otherwise, payment of the whole of any amount so payable, or any part thereof, shall be suspended, and if the certificate has not been issued may order any such directions to be inserted therein.

(4) Save and subject to rules of court, no execution or attachment or process in the nature thereof shall be issued out of any court for enforcing payment by the Crown of any such amount or costs, and the Attorney General or other officer of the Crown as the party in whose name civil proceedings by or against the Crown have been instituted shall not be personally liable under any order for the payment by the Crown, or the Attorney General or other officer of the Crown as such, of any such money or costs.

**Execution by the Crown**

**22.** (1) Subject to the provisions of this Act, any order made in favour of the Crown against any person in any civil proceedings to which the Crown is a party may be enforced in the same manner as an order made in an action between subjects, and not otherwise.

(2) Sections 2 and 3 of the Debtors Act (which provide respectively for the abolition of imprisonment for debt, and for saving the power of committal in case of judgment debts) shall apply to sums of money payable and debts due to the Crown.

(3) Nothing in this section shall affect any procedure that immediately before 20th June, 1956 was available for enforcing an order made in favour of the Crown in proceedings brought by the Crown for the recovery of any fine or penalty, or for the forfeiture or condemnation of any goods, or the forfeiture of any ship or any share in a ship.

**Attachment of money payable by the Crown**

**23.** (1) Where any money is payable by the Crown to some person who, under any order of any court, is liable to pay any money to any other person, and that other person would, if the money so payable by the Crown were money payable by a subject, be entitled under rules of court to obtain an order for the attachment thereof as a debt due or accruing due, or an order for the appointment of a sequestrator or receiver to receive the money on his behalf, the High Court may, subject to the provisions of this Act and in accordance with rules of court, make an order restraining the first-mentioned person from receiving that money and directing payment thereof to that other person, or to the sequestrator or receiver, but no such order shall be made in respect of—

(a) any wages or salary payable to any officer of the Crown as such; or

(b) any money that is subject to the provisions of any enactment prohibiting or restricting assignment or charging or taking in execution.

(2) The provisions of subsection (1) shall, so far as they relate to forms of relief falling within the jurisdiction of the Magistrate's Court, having effect in relation to the Magistrate's Court as they have effect in relation to the High Court but with the substitution of a reference to Magistrate's Court rules for any reference in that subsection to rules of court.

## PART 4

## MISCELLANEOUS AND SUPPLEMENTAL

**Discovery**

**24.** (1) Subject to and in accordance with rules of court—

(a) in any civil proceedings in the High Court to which the Crown is a party, the Crown may be required by the court to make discovery of documents and produce documents for inspection; and

(b) in those proceedings, the Crown may be required by the court to answer interrogatories.

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

(3) Subject to subsection (4), any rules made for the purposes of this section shall be such as to secure that the existence of a document will not be disclosed if, in the opinion of the Governor, it would be injurious to the public interest to disclose the existence thereof.

(4) This section shall be without prejudice to any rule of law that authorises or requires the withholding of any document or the refusal to answer any question on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest.

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

**25.** (1) Nothing in this Act shall authorise proceedings *in rem* in respect of any claim against the Crown, or the arrest, detention or sale of any of Her Majesty's ships, or aircraft, or of any cargo or other property belonging to the Crown, or give to any person any lien on any such ship, aircraft, cargo or other property.

(2) Where proceedings *in rem* have been instituted in the High Court or in the Magistrate's Court against any such ship, aircraft, cargo or other property, the court may, if satisfied, either on an application by the plaintiff for an order under this subsection or an application by the Crown to set aside the proceedings, that the proceedings were so instituted by the plaintiff in the reasonable belief that the ship, aircraft, cargo or other property did not belong to the Crown, order that the proceedings shall be treated as if they were *in personam* duly instituted against the Crown in accordance with the provisions of this Act, or duly instituted against any other person whom the court regards as the proper person to be sued in the circumstances, and that the proceedings shall continue accordingly.

(3) Any such order may be made upon such terms, if any, as the court thinks just and, where the court makes any such order it may make such consequential orders as the court thinks expedient.

**Limitation of actions**

**26.** Nothing in this Act shall prejudice the right of the Crown to rely upon the law relating to the limitation of time for bringing proceedings against public authorities.

**Application to the Crown of certain statutory provisions**

**27.** (1) This Act shall not prejudice the right of the Crown to take advantage of the provisions of any Act although not named therein, and it is hereby declared that in any civil proceedings against the Crown the provisions of any Act that could, if the proceedings were between subjects, be relied upon by the defendant as a defence to the proceedings, whether in whole or in part, or otherwise, may, subject to any express provision to the contrary, be so relied upon by the Crown.

(2) Section 5 of the Debtors Act (which empowers the court in certain circumstances to order the arrest of a defendant about to quit Anguilla) shall, with any necessary modifications, apply to civil proceedings brought by the Crown.

**No abatement on demise of Crown**

**28.** No claim by or against the Crown, and no proceedings for the enforcement of any such claim, shall abate or be affected by the demise of the Crown.

**Rules of court**

**29.** (1) Any power to make rules of court or Magistrate's Court rules shall include power to make rules for the purpose of giving effect to the provisions of this Act, and any such rules may contain provisions to have effect in relation to any proceedings by or against the Crown in substitution for or by way of addition to any of the provisions of the rules applying to proceedings between subjects.

(2) Provisions shall be made by rules of court and Magistrate's Court rules with respect to the following matters—

(a) for providing for service of process, or notice thereof, in the case of proceedings by the Crown against persons, whether British subjects or not, who are not resident in Anguilla;

(b) for securing that, where any civil proceedings are brought against the Crown in accordance with the provisions of this Act, the plaintiff shall, before the Crown is required to take any step in the proceedings, provide the Crown with such information as the Crown may reasonably require as to the circumstances in which it is alleged that the liability of the Crown has arisen and as to the departments and officers of the Crown concerned;

(c) for providing that in the case of proceedings against the Crown the plaintiff shall not enter judgment against the Crown in default of appearance or pleading without the leave of the court to be obtained on an application of which notice has been given to the Crown;

(d) for excepting proceedings brought against the Crown from the operation of any rule of court providing for summary judgment without trial;

(e) for authorising the Crown to deliver interrogatories without leave of a court in any proceedings for the enforcement of which proceedings by way of English information might have been taken if this Act had not been passed, so, however, that the Crown shall not be entitled to deliver any third or subsequent interrogatories without the leave of the court;

(f) for enabling evidence to be taken on commission in proceedings by or against the Crown;

(g) for providing—

(i) that a person shall not be entitled to avail himself of any set off or counterclaim in any proceedings by the Crown for the recovery of taxes, duties or penalties, or to avail himself in proceedings of any other nature by the Crown of any set off or counterclaim arising out of a right or claim to repayment in respect of any taxes, duties or penalties,

(ii) that a person shall not be entitled without the leave of the court to avail himself of any set off or counterclaim in any proceedings by the Crown if either the subject matter of the set off or counterclaim does not relate to a Government department connected with the proceedings or the proceedings are brought in the name of the Attorney General,

(iii) that the Crown when sued, and its alleged liability has arisen through the acts of a Government department, shall not without the leave of the court be entitled to avail itself of any set off or counterclaim if the subject matter thereof does not relate to that department,

(iv) that the Crown, when sued in the name of the Attorney General, shall not be entitled to avail itself of any set off or counterclaim without the leave of the court.

**Financial provisions**

**30.** (1) Any expenditure incurred by or on behalf of the Crown in right of Her Majesty's Government in Anguilla by reason of the passing of this Act shall be defrayed out of money to be provided by the Legislature.

(2) Any sums payable to the Crown in right of Her Majesty's Government in Anguilla by reason of the passing of this Act shall be paid into the Consolidated Fund

*(Act 7/2010, s. 26)*

**Savings**

**31.** (1) Nothing in this Act shall apply to proceedings by or against, or authorise proceedings in tort to be brought against, Her Majesty in Her private capacity.

(2) Except as herein otherwise expressly provided, nothing in this Act shall—

(a) affect the law relating to prize salvage, or apply to proceedings in causes or matters within the jurisdiction of the High Court as a prize court or to any criminal proceedings;

(b) authorise proceedings to be taken against the Crown under or in accordance with this Act in respect of any alleged liability of the Crown arising otherwise than in respect of Her Majesty's Government in Anguilla, or affect proceedings against the Crown in respect of any such alleged liability as aforesaid;

(c) affect any proceedings by the Crown otherwise than in right of Her Majesty's Government in Anguilla;

(d) subject the Crown to any greater liabilities in respect of the acts or omissions of any independent contractor employed by the Crown than those to which the Crown would be subject in respect of such acts or omissions if it were a private person;

(e) affect any rules of evidence or any presumption relating to the extent to which the Crown is bound by any Act; or

(f) affect any right of the Crown to demand a trial at bar or to control or otherwise intervene in proceedings affecting its rights, property or profits;

and without prejudice to the general effect of the foregoing provisions, Part 3 does not apply to the Crown except in right of Her Majesty's Government in Anguilla.

(3) A certificate of the Governor—

(a) to the effect that any alleged liability of the Crown arises otherwise than in respect of Her Majesty's Government in Anguilla; or

(b) to the effect that any proceedings by the Crown are proceedings otherwise than in right of Her Majesty's Government in Anguilla;

shall, for the purposes of this Act, be conclusive as to the matters so certified.

(4) Where any property vests in the Crown by virtue of any rule of law that operates independently of the acts or the intentions of the Crown, the Crown shall not by virtue of this Act be subject to any liabilities in tort by reason only of the property being so vested, but the provisions of this subsection shall be without prejudice to the liabilities of the Crown under this Act in respect of any period after the Crown or any person acting for the Crown has in fact taken possession or control of any such property, or entered into occupation thereof.

(5) This Act shall not operate to limit the discretion of the court to grant relief by way of mandamus in cases in which that relief might have been granted before 30th June, 1956, notwithstanding that by reason of the provisions of this Act some other and further remedy is available.

**Citation**

**32.** This Act may be cited as the Crown Proceedings Act, Revised Statutes of Anguilla, Chapter C160.

**SCHEDULE 1**

(Section 8)

**PROVISIONS RELATING TO THE ARMED FORCES**

**1.** (1) Nothing done or omitted to be done by a member of the armed forces of the Crown while on duty as such shall subject either him or the Crown to liability in tort for causing the death of another person, or for causing personal injury to another person, in so far as the death or personal injury is due to anything suffered by that other person while he is a member of the armed forces of the Crown if—

(a) at the time when that thing is suffered by that other person, he is either on duty as a member of the armed forces of the Crown or is, though not on duty as such, on any land, premises, ship, aircraft or vehicle for the time being used for the purposes of the armed forces of the Crown; and

(b) where—

(i) that other person is a member of the armed forces of the Crown in right of its Government in the United Kingdom, the Minister of the Government of the United Kingdom with portfolio responsible for pensions certifies that his suffering that thing has been or will be treated as attributable to service for the purposes of entitlement to an award under the Royal Warrant, Order in Council or Order of Her Majesty relating to the disablement or death of members of the force of which he is a member, or

(ii) where that other person is a member of the armed forces of the Crown in right of its Government in Anguilla, the Governor in Council certifies that his suffering that thing has been or will be treated as attributable to service for the purposes of entitlement to a gratuity or pension under any enactment relating to the disablement or death of members of the force of which he is a member;

but this subsection shall not exempt a member of the said forces from liability in tort in any case in which the court is satisfied that the act or omission was not connected with the execution of his duties as a member of those forces.

(2) No proceedings in tort shall lie against the Crown for death or personal injury due to anything suffered by a member of the armed forces of the Crown if—

(a) that thing is suffered by him in consequence of the nature or condition of any such land, premises, ship, aircraft or vehicle as aforesaid, or in consequence of the nature or condition of any equipment or supplies used for the purposes of those forces; and

(b) in the case of—

(i) a member of the armed forces of the Crown in right of its Government in the United Kingdom, the Minister of the Government of the United Kingdom with portfolio responsible for pensions certifies as mentioned in subsection (1),

(ii) a member of the armed forces of the Crown in right of its Government in Anguilla, the Governor in Council certifies as mentioned in subsection (1);

nor shall any act or omission of an officer of the Crown subject him to liability in tort for death or personal injury, in so far as the death or personal injury is due to anything suffered by a member of the armed forces of the Crown being a thing as to which the conditions aforesaid are satisfied.

(3) The Governor, if satisfied that it is the fact—

(a) that a person was or was not on any particular occasion on duty as a member of the armed forces of the Crown in right of its Government in Anguilla; or

(b) that at any particular time any land, premises, ship, aircraft, vehicle, equipment or supplies was or was not, or were or were not, used for the purposes of the said forces;

may issue a certificate certifying that to be the fact, and any such certificate shall, for the purposes of this section, be conclusive as to the fact which it certifies.

(4) A certificate of the Admiralty or a Secretary of State—

(a) that a person was or was not on any particular occasion on duty as a member of the armed forces of the Crown in right of its Government in the United Kingdom; or

(b) that at any particular time any land, premises, ship, aircraft, vehicle, equipment or supplies was or was not, or were or were not, used for the purposes of the said forces;

shall, for the purposes of this section, be conclusive as to the fact which it certifies.

(5) For the purposes of this section, "member of the armed forces of the Crown", unless the context otherwise requires, means a member of the armed forces of the Crown in the right of its Government in Anguilla (including members of the Police Force) or in right of its Government in the United Kingdom.

(6) Nothing in this section shall be deemed by implication or otherwise to confer any right of action against the Crown in right of its Government in the United Kingdom.

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**SCHEDULE 2**

(Section 10)

**ABOLISHED CIVIL PROCEEDINGS AGAINST THE CROWN**

**1.** (1) Latin informations and English informations.

(2) Writs of capias ad respondendum, writs of subpoena ad respondendum, and writs of appraisement.

(3) Writs of scire facias.

(4) Proceedings for the determination of any issue upon a writ of extent or of diem clausit extremum.

**2.** Proceedings against Her Majesty by way of monstrans de droit.

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