

**WEST INDIES ASSOCIATED STATES SUPREME COURT
(GRENADA) ACT**

Arrangement of Sections

Section

PRELIMINARY

1. Short title
2. Interpretation
3. References to Supreme Court, former Court of Appeal and British Caribbean Court of Appeal
4. How Supreme Court Judges are to be addressed
5. Constitution of Court

PART I

THE HIGH COURT

6. Jurisdiction of former Supreme Court vested in High Court
7. Jurisdiction of High Court
8. Jurisdiction of High Court in Admiralty
9. Practice in bankruptcy
10. Practice in criminal proceedings
11. Practice in civil proceedings and in probate, divorce, and matrimonial causes
12. Jurisdiction of single Judge
13. Law and equity to be concurrently administered
14. Equities of plaintiff
15. Equitable defences
16. Counterclaim and third parties
17. Equities appearing incidentally
18. Defence or stay instead of injunction or prohibition
19. Common law and statutory rights and duties
20. Determination of matters completely and finally
21. Rules of equity to prevail
22. Declaratory order

Section

23. Mode of trial
24. Granting of mandamus or injunction and appointment of receiver
25. Orders of mandamus, prohibition and certiorari to be substituted for prerogative writs
26. Power to make order of mandamus in certain cases
27. Power of court to award interest on debts and damages
28. Execution of instruments by order of High Court
29. Restrictions on institution of vexatious actions

PART II

THE COURT OF APPEAL

Jurisdiction of the Court of Appeal

30. Jurisdiction vested in Court of Appeal
31. Practice and procedure in Court of Appeal
32. Appeals from magistrates' courts

Civil Appeals from the High Court

33. Appeals from High Court in civil matters
34. Powers of Judge of High Court where appeal pending in Court of Appeal
35. Powers of Court of Appeal on hearing an appeal
36. Supplementary powers of Court of Appeal in civil appeals
37. Power of Court of Appeal as to new trials
38. Wrong ruling as to sufficiency of stamps

Criminal Appeals from the High Court

39. Interpretation of this Division
40. Right of appeal in criminal cases
41. Determination of appeals in certain cases
42. Powers of Court of Appeal in special cases
43. Supplementary provisions where appeal against special verdict allowed
44. Restitution of property on conviction
45. Supplementary powers of Court of Appeal in criminal appeals
46. Duty to admit fresh evidence
47. Admission of appellant to bail and custody when attending court
48. Computation of sentence

Section

49. Time for appealing
50. Stay of execution
51. Judge's notes and report to be furnished on appeal
52. Legal assistance to appellant
53. Right of appellant to be present
54. Costs of appeal
55. Duties of Registrar with respect to appeals
56. Shorthand notes, etc.
57. Powers which may be exercised by Judge of Court of Appeal
58. Case stated or questions of law reserved
59. Provisions of this Act applicable to proceedings under section 58
60. Prerogative of mercy
61. Criminal information
62. Appeals from orders in contempt proceedings

PART III

OFFICERS OF THE COURT

63. Office of Registrar
64. Power of Registrar as Commissioner of Court
65. Registrar to be notary public
66. Appointment of Deputy Registrar and clerks
67. Duties and liabilities of Deputy Registrar
68. Bailiffs
69. Chief Registrar
70. Present officers of Court
71. Taxation of costs
72. Acting Registrar
73. Hours of business
74. Chief Registrar, Registrar, Deputy Registrar, clerks and bailiffs, not to advise litigants, etc.
75. Misconduct of officers of Court

PART IV

BARRISTERS AND SOLICITORS

76. Existing practitioners

Section

77. Admission of barrister and solicitor
78. Enrolment of practitioners and right of audience in Supreme Court
79. Barristers practising as solicitors
80. Queen's Counsel
81. Solicitors and commissioners for oaths to be officers of Court
82. Barristers and solicitors may be suspended or struck off roll
83. Unauthorized persons drawing legal documents
84. Law relating to solicitors, taxation and recovery of costs

PART V

SOLICITORS' EXAMINATIONS

85. Admission of solicitors on examination
86. Person taking certain degree and passing prescribed examination may be admitted and enrolled as a solicitor after three years service
87. Length of articles of clerkship in case of a *bona fide* barrister's or solicitor's clerk of ten years service
88. Preliminary and qualifying examinations
89. Definition and qualifying examination
90. Time within which articles to be registered
91. Effect of registration after prescribed time
92. Procedure on registration
93. Inspection of register
94. Cancellation or assignment of articles on bankruptcy of barrister or solicitor
95. Entry into fresh articles on death, etc., of barrister or solicitor
96. Restriction as to number of clerks articulated to barrister or solicitor
97. Continuous service by articulated clerk
98. Arrangement with Law Society to conduct examinations
99. Power to amend Schedule

PART VI

WITNESSES

100. Disobedience to subpoena
101. Witnesses' expenses in criminal proceedings
102. Persons present in Court may be ordered to give evidence

Section

PART VII

MISCELLANEOUS

103. Sittings of the Courts
104. Interlocutory applications
105. Expenses in criminal proceedings
106. Remission or reduction of fines
107. Registrar to have custody of records of Ordinances, Acts, etc.
108. Power to make rules
109. Saving of procedure

SCHEDULE—Qualifying examinations

CHAPTER 336

AN ACT to repeal and replace the Supreme Court Act (Cap. 289-1958) and to confer jurisdiction on the West Indies Associated States Supreme Court, and for connected matters

Acts
17 of 1971
22 of 1961
9 of 1974
4 of 1979
14 of 1979
28 of 1979
20 of 1991
S.R.O.
27/1991

[16th April, 1971*]

PRELIMINARY

1. This Act may be cited as the

Short title

**WEST INDIES ASSOCIATED STATES
SUPREME COURT (GRENADA) ACT.**

2. In this Act—

Interpretation

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

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

“Chief Justice” means the Chief Justice of the West Indies Associated States Supreme Court, and includes any Justice of Appeal designated to act as Chief Justice under the provisions of section 6(1) of the Courts Order;

* Note: This Act, after its almost entire repeal in 1979, was re-enacted with effect from the 16th August, 1991 (see Act 20 of 1991 and S.R.O. 27/1991). Having regard to its significance, special provision was made in the Revision of the Laws Act for its inclusion in this Edition: see Revision of the Laws Act, 1989, section 7(3)(d).

“Chief Registrar” means the Chief Registrar of the Supreme Court constituted under the Courts Order;

“Court” or “Supreme Court” means the West Indies Associated States Supreme Court established by the Courts Order;

“Court of Appeal” means the Court of Appeal constituted under the Courts Order;

“Courts Order” means the West Indies Associated States Supreme Court Order, 1967;

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

“former British Caribbean Court of Appeal” means the British Caribbean Court of Appeal in existence immediately before the prescribed date;

“former Court of Appeal” means the Court of Appeal of the Windward Islands and Leeward Islands in existence immediately before the prescribed date;

“former Supreme Court” means the Supreme Court of the Windward Islands and Leeward Islands in existence immediately before the prescribed date;

“High Court” means the High Court of Justice established by the Courts Order;

“judgment” includes decree;

“Justice of Appeal” means a Judge of the Court of Appeal other than the Chief Justice;

“matrimonial cause” means any action for divorce, nullity of marriage, judicial separation, jactitation of marriage or restitution of conjugal rights;

“matter” includes every proceeding in court not in a cause;

“order” includes decision and rule;

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

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

“plaintiff” includes every person asking for any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the proceeding is 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 counter-claim of a defendant;

“prescribed date” means the date prescribed by the Chief Justice under subsection (2) of section 1 of the Courts Order, namely, the 24th April, 1967;

“proceeding” includes action, cause or matter;

“Puisne Judge” means a Judge of the High Court, other than the Chief Justice;

“Registrar” means the Registrar of the High Court;

“rules of court” includes forms;

“solicitor” means solicitor of the Supreme Court;

“suit” includes action;

“verdict” includes the findings of a jury and the decision of the Judge.

3. (1) Where in any Act, Ordinance or other law in force immediately before the prescribed date reference is made to the Supreme Court (thereby meaning the former Supreme Court) in the exercise of its jurisdiction and powers, or to a judge of the said Supreme Court, that reference shall be deemed to be a reference to the High Court or to a Judge of the High Court as the case may be.

(2) Where in any Act, Ordinance or other law in force immediately before the prescribed date reference is made to the Court of Appeal (thereby meaning the former Court of Appeal) that reference shall, unless the context otherwise requires, be deemed to be a reference to the Court of Appeal constituted under the Courts Order.

(3) Where in any Act, Ordinance or other law in force immediately before the prescribed date reference is made to the British Caribbean Court of Appeal that reference shall,

References
to Supreme
Court, former
Court of
Appeal and
British
Caribbean
Court of
Appeal

unless the context otherwise requires, be deemed to be a reference to the Court of Appeal.

(4) Any act done or proceeding taken in respect of any cause or matter whatsoever in the former Supreme Court or before a Judge thereof prior to the prescribed date shall have effect after the prescribed date as if it had been done or taken in the High Court or before a Judge thereof.

How Supreme Court judges are to be addressed

4. All Judges of the Supreme Court shall be addressed in the manner customary in addressing the judges of the former Supreme Court immediately before the prescribed date.

Constitution of Court

5. Subject to the provisions of subsection (3) of section 17 of the Courts Order and of rules of court the Court of Appeal and the High Court for the exercise of the jurisdiction conferred upon them respectively shall be constituted in such manner as the Chief Justice may direct.

PART I

THE HIGH COURT

Jurisdiction of former Supreme Court vested in High Court Cap. 289-1958

6. There shall be vested in the High Court all jurisdiction which was vested in the former Supreme Court by the Supreme Court Ordinance or by any law of the Legislature of Grenada or any other law for the time being in force in Grenada and such jurisdiction shall include—

- (a) the jurisdiction which was vested in, or capable of being exercised by, all or any one or more of the judges of the former Supreme Court sitting in Court or Chambers or elsewhere when acting as judges or a judge pursuant to any Order in Council, Act, Ordinance or any other law for the time being in force in Grenada;
- (b) all the powers given to the former Supreme Court or to any judge or judges thereof by any Act, Ordinance or any other law for the time being in force in Grenada;
- (c) all ministerial powers, duties and authorities incidental to any and every part of that jurisdiction.

7. (1) The High Court may have and exercise within Grenada all such jurisdiction (save and except the jurisdiction in Admiralty) and the same powers and authorities incidental to such jurisdiction as, from the commencement of this Act, are vested in the High Court of Justice in England.

Jurisdiction of High Court

(2) The High Court may have and may exercise in relation to the persons and property, in Grenada, of persons suffering from mental disorder the jurisdiction exercised, under the relevant provisions of the Mental Health Act, 1959, by the Court of Protection in England or any judge thereof.

7 & 8
Eliz. 2
c. 72

8. The High Court shall have and exercise all such jurisdiction in Admiralty and the same powers and authorities incidental to such jurisdiction as immediately before the prescribed date were vested in the former Supreme Court, and reference to the former Supreme Court in the Admiralty Jurisdiction (Grenada) Order, 1964, shall be deemed to be a reference to the High Court.

Jurisdiction of High Court in Admiralty

S.I. 1964,
No. 1661

9. The jurisdiction of the High Court in bankruptcy shall be exercised in accordance with the provisions of the Bankruptcy Act and rules made thereunder.

Practice in bankruptcy
Cap. 27

10. (1) The jurisdiction of the High Court in all criminal proceedings shall be exercised in accordance with the Criminal Procedure Code and any other law in force in Grenada.

Practice in criminal proceedings
Cap. 77-1958

(2) The High Court shall have cognizance of all offences committed in Grenada or within one marine league of the coasts thereof measured from low water mark, and of all offences authorized to be tried in Grenada under any Statute of the United Kingdom.

11. (1) The jurisdiction vested in the High Court in civil proceedings, and in probate, divorce and matrimonial causes, shall be exercised in accordance with the provisions of this Act and any other law in operation in Grenada and rules of court, and where no special provision is therein contained such jurisdiction shall be exercised as nearly as may be in conformity with the law and practice for the time being in force in the High Court of Justice in England.

Practice in civil proceedings and in probate, divorce and matrimonial causes

(2) At any time during the progress of a suit for divorce or nullity of marriage, or before the decree is made absolute, any person may give information to the Attorney-General of any matter material to the due decision of the case, who may thereupon take such steps as he may deem necessary or expedient; and if from any such information or otherwise the Attorney-General shall be of opinion that any parties to the suit are, or have been, acting in collusion for the purpose of obtaining the divorce or decree of nullity of marriage, as the case may be, he may by leave of the High Court intervene in the suit, alleging such case or collusion, and retain counsel or subpoena witnesses to prove it, and it shall be lawful for the High Court to order the costs of such counsel and witnesses and otherwise arising from such intervention to be paid by the parties, or such of them as it shall see fit, including a wife if she has separate property; but it shall not be lawful for the High Court to order any costs arising from any intervention to be paid by the Attorney-General, and the Attorney-General shall be entitled to be paid from the Consolidated Fund all reasonable costs which he may have incurred arising from any such intervention after deducting any costs which may have been paid to him by the parties.

(3) The rules and regulations last in force in the former Probate, Divorce and Admiralty Division of the High Court of Justice in England with respect to the Queen's Proctor under section 6 of the Matrimonial Causes Act, 1965, of the United Kingdom shall, subject to rules of court, apply to the Attorney-General.

(4) Notwithstanding anything contained in section 3 of the Matrimonial Causes Act, 1937, of the United Kingdom, in any divorce proceedings a person of unsound mind shall be deemed to have been under care and treatment for a period of at least five years if the High Court is satisfied upon hearing the evidence of at least two medical practitioners that the respondent has been continuously under medical and mental care and treatment for a period of not less than five years immediately preceding the presentation of the petition whether the respondent has or has not suffered detention in pursuance of any lunacy order or inquisition, or has or has not been receiving treatment as a voluntary patient, under any law for the time being in force.

12. Any Judge of the High Court may in accordance with rules of court, or so far as such rules shall not provide, in accordance with the practice and procedure which shall for the time being be in force in the High Court of Justice in England exercise, in court or in chambers, all or any of the jurisdiction vested in the High Court.

Jurisdiction
of single
Judge

13. Subject to the express provisions of any other law, in every civil cause or matter commenced in the High Court, law and equity shall be administered by the High Court and the Court of Appeal.

Law and
equity to be
concurrently
administered

14. 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 claims whatsoever asserted by any defendant or respondent in the cause or matter, or to any relief founded upon a legal right which before the 1st November, 1875 could in England only have been given by a court of equity, the Court or a Judge thereof shall give to the plaintiff or petitioner the same relief as would be given by the High Court of Justice in England in a suit or proceeding for the same or a like purpose.

Equities of
plaintiff

15. If a defendant claims to be entitled to any equitable estate or right, or to relief upon 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 equitable defence to any such claim of the plaintiff or petitioner, the Court or a Judge thereof shall give to every equitable estate, right or ground of relief so claimed, and to every equitable defence such and the same effect by way of defence against the claim of the plaintiff or petitioner as the High Court of Justice in England would give if the like matters had been relied on by way of defence in any suit or proceeding instituted in that Court for the like purpose.

Equitable
defences

16. (1) The Court or a Judge thereof 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—

Counterclaim
and third
parties

- (a) all such relief against any plaintiff or petitioner as the defendant has properly claimed by his pleading, and as the Court or a Judge thereof 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 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.

17. The Court or a Judge thereof 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 would recognize and take notice of the same in any suit or proceeding duly instituted therein.

18. No cause or proceeding at any time pending in the High Court or in the Court of Appeal 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:

Provided that—

- (a) nothing in this Act shall disable the High Court or the Court of Appeal, if it thinks fit so to do, 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 High Court or to the Court of Appeal, as the case may be, 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 High Court or the Court of Appeal, as the case may be, shall thereupon make such order as shall be just.

19. Subject to the provisions of this Act for giving effect to equitable rights and other matters of equity, the High Court and the Court of Appeal and each Judge thereof shall recognize and give effect to all legal claims and demands, and all estates, titles, rights, duties, obligations and liabilities existing by the common law or by any custom, or created by any statute, in the same manner as these matters have hitherto been recognized and given effect to.

20. The High Court and the Court of Appeal respectively in the exercise of the jurisdiction vested in them by this Act shall in every cause or matter pending before the Court grant either absolutely or on such terms and conditions as the Court thinks just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any legal or equitable claim 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 these matters avoided.

21. In all matters in which there was formerly or is any conflict or variance between the rules of equity and the rules of common law with reference to the same matter the rules of equity shall prevail.

22. No action shall be open to objection on the ground that a merely declaratory decree or order is sought.

23. (1) Subject as hereinafter provided, any action to be tried before the High Court, may in the discretion of that Court

Common law and statutory rights and duties

Determination of matters completely and finally

Rules of equity to prevail

Declaratory order

Mode of trial

Equities appearing incidentally

Defence or stay instead of injunction or prohibition

or of a Judge thereof, be ordered to be tried with or without a jury:

Provided that the mode of trial shall be by a Judge without a jury unless, upon the application of any party to the action, a trial with a jury is ordered.

(2) Any party to the action may within ten days after the action has been set down for trial apply to have the action tried with a jury, and if the High Court or a Judge thereof is satisfied that—

- (a) a charge of fraud against the party; or
- (b) a claim in respect of libel, slander, malicious prosecution, false imprisonment, seduction or breach of promise of marriage,

is in issue, the action shall be ordered to be tried with a jury unless the High Court or a Judge thereof is of opinion that the trial requires any prolonged examination of documents or accounts or any specific or local investigation which cannot conveniently be made with a jury; but, save as aforesaid, the granting of a jury shall in every case be discretionary.

(3) The provisions of this section shall be without prejudice to the power of the High Court or a Judge thereof to order, in accordance with rules of court, that different questions of fact arising in any action be tried by different modes of trial, and where such order is made the provisions of this section requiring trial with a jury in certain cases shall have effect only as respects questions relating to any such charge or claim as aforesaid.

24. (1) A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the High Court or a Judge thereof in all cases in which it appears to the High Court or to a Judge thereof to be just or convenient that the order should be made, and any such order may be made either unconditionally or upon such terms and conditions as the High Court or the Judge thinks just.

(2) If an injunction is prayed for, either before or at, or after the hearing of a cause or matter to prevent a threatened or apprehended waste or trespass the injunction may be granted if the High Court or a Judge thereof thinks fit—

(a) whether the person against whom the injunction is sought—

- (i) is or is not in possession under a claim or title or otherwise; or
- (ii) if out of possession, does or does not claim under any colour of title a right to do the act sought to be restrained; and

(b) whether the estates claimed by both or by either of the parties are legal or equitable.

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

Orders of mandamus, prohibition and certiorari to be substituted for prerogative writs

(2) In any case where the High Court would, but for the provisions of the last foregoing subsection, 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 High Court, 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.

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

(4) 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.

(5) In any enactment references to a 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.

26. The power of the High Court under any enactment to require magistrates to do any act relating to the duties of their office, or to require any court of summary jurisdiction to state a case for the opinion of the Court, in any case where immediately before the commencement of this Act the Court had by virtue of any enactment jurisdiction to make a rule absolute or to make an order, as the case may be, for any of those purposes, shall be exercisable by order of mandamus.

Power to make order of mandamus in certain cases

Granting of mandamus or injunction and appointment of receiver

Power of courts to award interest on debts and damages

27. In any proceedings for the recovery of any debt or damages, in the High Court or the Court of Appeal, 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, but nothing in this section—

- (a) shall authorize the giving of interest upon interest; or
- (b) shall apply in relation to any debt upon which interest is payable as of right whether by virtue of any agreement or otherwise; or
- (c) shall affect the damages recoverable for the dishonour of a bill of exchange.

Execution of instruments by order of High Court

28. Where any person neglects or refuses to comply with a judgment or order directing him to execute any conveyance, contract or other document, or to endorse any negotiable instrument, the High Court may on such terms and conditions (if any) as may be just, order that the conveyance, contract or other document shall be executed or that the negotiable instrument shall be endorsed by such person as the High Court may nominate for that purpose and any conveyance, contract, document or instrument so executed or endorsed shall operate and be for all purposes available as if it had been executed or endorsed by the person originally directed to execute or endorse it.

Restrictions on institution of vexatious actions

29. (1) If, on an application made by the Attorney-General under this section to the High Court, the High Court is satisfied that a person has habitually and persistently and without reasonable ground instituted vexatious legal proceedings, whether in the Court of Appeal, the High Court, or in a magistrate's court, and whether against the same person or against different persons, the High Court may, after hearing that person or after giving him an opportunity to be heard, order that no legal proceedings shall, without leave of the High Court or a Judge thereof, be instituted by him in any court; and that any legal proceedings instituted by him in any court before the making of the order shall not be continued by him without such leave and such leave shall not be given unless the High

Court 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 High Court shall assign counsel to him.

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

PART II

THE COURT OF APPEAL

Jurisdiction of the Court of Appeal

30. Subject to the provisions of this Act there shall be vested in the Court of Appeal—

Jurisdiction vested in Court of Appeal

- (a) the jurisdiction and powers which immediately before the prescribed date were vested in the former Court of Appeal;
- (b) the jurisdiction and powers which immediately before the prescribed date were vested in the former British Caribbean Court of Appeal;
- (c) such other jurisdiction and powers as may be conferred upon it by this Act or any other enactment.

31. The jurisdiction of the Court of Appeal so far as it concerns practice and procedure in relation to appeals from the High Court shall be exercised in accordance with the provisions of this Act and rules of court and, where no special provisions are contained in this Act or rules of court, such jurisdiction so far as concerns practice and procedure in relation to appeals from the High Court shall be exercised as nearly as may be in conformity with the law and practice for the time being in force in England—

Practice and procedure in Court of Appeal

- (a) in relation to criminal matters, in the Court of Appeal (Criminal Division);
- (b) in relation to civil matters, in the Court of Appeal (Civil Division).

Appeals from
magistrates'
courts
Cap. 178

32. (1) Subject to the provisions of the Magistrates Judgments (Appeals) Act or any other enactment regulating the procedure on appeals from magistrates' courts and to rules of court, an appeal shall lie to the Court of Appeal from any judgment, decree, sentence or order of a magistrate in all proceedings.

(2) The time within which notice of appeal may be given or any bond or security entered into or grounds of appeal filed in relation to appeals under this section may be extended at any time by the Court of Appeal.

Civil Appeals from the High Court

✓ Appeals from High Court in civil matters

33. (1) Subject to the provisions of this Act or any other enactment—

(a) the Court of Appeal shall have jurisdiction to hear and determine any matter arising in any civil proceedings upon a case stated or upon a question of law reserved by the High Court or by a Judge thereof pursuant to any power conferred in that behalf by any written law;

(b) an appeal shall lie to the Court of Appeal, and the Court of Appeal shall have jurisdiction to hear and determine the appeal, from any judgment or order of the High Court; and for the purposes of, and incidental to, the hearing and determination of any appeal, and the amendment, execution and enforcement of any judgment or order made thereon, the Court of Appeal shall have all the powers, authority and jurisdiction of the High Court.

(2) No appeal shall lie under this section—

(a) from any order made in a criminal cause or matter;

(b) from an order allowing an extension of time for appealing from a judgment or order;

(c) from an order of a Judge giving unconditional leave to defend an action;

(d) from a decision of the High Court or of a Judge thereof where it is provided by any written law that such decision is to be final;

(e) from an order absolute for the dissolution or nullity of a marriage in favour of any party who, having had

time and opportunity to appeal from the decree *nisi* on which the order was founded, has not appealed from that decree except upon some point which would not have been available to such party on such appeal;

(f) without the leave of the Judge making the order or of the Court of Appeal—

(i) from an order made with the consent of the parties; or

(ii) from an order as to costs where such costs by law are left to the discretion of the court;

(g) without the leave of the Judge or of the Court of Appeal from any interlocutory judgment or any interlocutory order given or made by a Judge except—

(i) where the liberty of the subject or the custody of infants is concerned;

(ii) where an injunction or the appointment of a receiver is granted or refused;

(iii) in the case of a decree *nisi* in a matrimonial cause or a judgment or order in an admiralty action determining liability;

(iv) in such other cases, to be prescribed, as are in the opinion of the authority having power to make rules of court of the nature of final decisions.

34. Where an appeal has been brought under the provisions of the foregoing section and is pending in the Court of Appeal a Judge of the High Court may hear and determine such applications incidental to the appeal and not involving the decision thereof as may be prescribed by rules of court; but an order made on any such application may be discharged or varied by the Court of Appeal.

Powers of Judge of High Court where appeal pending in Court of Appeal

35. (1) On the hearing of an appeal from any order of the High Court in any civil cause or matter, the Court of Appeal shall have power to—

Powers of Court of Appeal on hearing an appeal

(a) confirm, vary, amend or set aside the order or make such order as the High Court might have made, or to make any order which ought to have been made, and

to make such further or other order as the nature of the case may require;

- (b) draw inferences of fact;
- (c) direct the High Court to enquire into and certify its findings on any question which the Court of Appeal thinks fit to be determined before final judgment in the appeal.

(2) The powers of the Court of Appeal under this section may be exercised notwithstanding that no notice of appeal or respondent's notice has been given in respect of any particular part of the decision of the High Court by any particular party to the proceedings or that any ground for allowing the appeal or for affirming or varying the decision of that Court is not specified in such notice; and the Court of Appeal may make any order in such terms as the Court of Appeal thinks just to ensure the termination on the merits of the real question in controversy between the parties.

(3) The powers of the Court of Appeal in respect of an appeal shall not be restricted by reason of any interlocutory order from which there has been no appeal.

(4) The Court of Appeal may make such order as to the whole or any part of the costs of an appeal as may be just, and may, in special circumstances, order that such security shall be given for the costs of an appeal as may be just.

Supplemen-
tary powers
of Court of
Appeal in
civil appeals

36. For the purposes of an appeal in any civil cause or matter, the Court of Appeal may, if it thinks it necessary or expedient in the interests of justice—

- (a) order the production of any document, exhibit or other thing connected with the proceedings, the production of which appears to it necessary for the determination of the case;
- (b) order any witnesses who would have been compellable witnesses at the trial to attend and be examined before the Court of Appeal, whether they were or were not called at the trial, or order the examination of any such witnesses to be conducted in manner provided by rules of court before any Judge of the Court of Appeal or

before any officer of the Court of Appeal or other person appointed by the Court of Appeal for the purpose, and allow the admission of any deposition so taken as evidence before the Court of Appeal;

- (c) receive the evidence, if tendered, of any witness including the appellant who is a competent but not a compellable witness and, if application is made for the purpose, of the husband or wife of the appellant in cases where the evidence of the husband or wife could not have been given at the trial except on such application;
- (d) where any question arising in the appeal involves prolonged examination of documents or accounts, or any scientific or local investigation which cannot, in the opinion of the Court of Appeal, conveniently be conducted before the Court of Appeal, order the reference of the question in manner provided by rules of court for inquiry and report to a special commissioner appointed by the Court of Appeal, and act upon the report of any such commissioner as far as it thinks fit to adopt it; and
- (e) appoint any person with special expert knowledge to act as an assessor in an advisory capacity to the Court of Appeal in any case where it appears to the Court of Appeal that such special knowledge is required for the proper determination of the case.

37. (1) Subject to the provisions of this section, on the hearing of an appeal in any civil cause or matter the Court of Appeal shall, if it appears to the Court of Appeal that a new trial should be held, have power to set aside the order appealed against and order that a new trial be held.

Power of
Court of
Appeal as to
new trials

(2) On the hearing of an appeal in any civil cause or matter, the following provisions shall apply—

- (a) a new trial shall not be ordered on the ground of misdirection, or of the improper admission or rejection of evidence unless in the opinion of the Court of Appeal some substantial wrong or miscarriage of justice has been thereby occasioned;

- (b) a new trial may be ordered on any question without interfering with the finding or decision upon any other question; and if it appears to the Court of Appeal that any such wrong or miscarriage of justice as is mentioned in paragraph (a) of this subsection affects part only of the matter in controversy or one or some only of the parties, the Court of Appeal may order a new trial as to that part only, or as to that party or those parties only, and give final judgment as to the remainder.
- (3) On the hearing of an appeal from an order made in any action tried with a jury the following provisions shall apply—
- (a) the Court of Appeal may, if it thinks fit, make any such order as could be made in pursuance of an application for a new trial or to set aside a verdict, finding or judgment of the court below;
- (b) a new trial shall not be ordered because the verdict of the jury was not taken upon a question which the Judge at the trial was not asked to leave to them unless in the opinion of the Court of Appeal some substantial wrong or miscarriage of justice has been thereby occasioned;
- (c) in any case where the Court of Appeal has power to order a new trial on the ground that damages awarded by a jury are excessive or inadequate, the Court of Appeal may, in lieu of ordering a new trial—
- (i) with the consent of all parties concerned, substitute for the sum awarded by the jury such sum as appears to the Court of Appeal to be proper;
- (ii) with the consent of the party entitled to receive or liable to pay the damages, as the case may be, reduce or increase the sum awarded by the jury by such amount as appears to the Court of Appeal to be proper in respect of any distinct head of damages erroneously included in or excluded from the sum so awarded; but except as aforesaid the Court of Appeal shall not have power to reduce or increase damages awarded by a jury.

38. The Court of Appeal shall not grant a new trial or reverse any judgment by reason of the ruling of any court that the stamp upon any document is sufficient or that the document does not require a stamp.

Wrong ruling as to sufficiency of stamps

Criminal Appeals from the High Court

39. (1) In sections 40 to 61 of this Act unless the context otherwise requires—

Interpretation of this Division

“appeal” means an appeal by a person convicted upon indictment;

“appellant” includes a person who has been convicted and desires to appeal under this Part;

“sentence” includes any order of the court made on conviction or in relation to the person convicted or his wife or children and any recommendation of the convicting court as to the making of a deportation order in the case of a person convicted, and “the power of the Court of Appeal to pass a sentence” includes a power to make any such order or recommendation as the convicting court might have made and a recommendation so made by the Court of Appeal shall have the same effect for the purposes of any law under which such recommendation is permitted to be made, as the certificate and recommendation of the convicting court.

(2) In this section and in sections 40 to 61 references to a person being convicted shall include references to his being the subject of a special verdict under section 184 of the Criminal Procedure Code.

Cap. 77-1958

40. A person convicted on indictment may appeal under this Act to the Court of Appeal—

Right of appeal in criminal cases

(a) against his conviction on any ground of appeal which involves a question of law alone; and

(b) with the leave of the Court of Appeal or upon the certificate of the Judge who tried him that it is a fit case for appeal against his conviction on any ground of appeal which involves a question of fact alone, or a question of mixed law and fact, or any other ground

which appears to the Court of Appeal to be a sufficient ground of appeal; and

- (c) with the leave of the Court of Appeal against the sentence passed on his conviction, unless the sentence is one fixed by law.

Determination
of appeals in
certain cases

41. (1) The Court of Appeal on any such appeal against conviction shall, subject as hereinafter provided, allow the appeal if it thinks that the verdict of the jury should be set aside on the ground that it is unsafe or unsatisfactory or that the judgment of the court before whom the appellant was convicted should be set aside on the ground of a wrong decision of any question of law or that there was a material irregularity in the course of the trial and in any other case shall dismiss the appeal:

Provided that the Court of Appeal may, notwithstanding that it is of the opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no miscarriage of justice has actually occurred.

(2) Subject to the provisions of this Act the Court of Appeal shall, if it allows an appeal against conviction, quash the conviction, and direct a judgment and verdict of acquittal to be entered, or, if the interests of justice so require, order a new trial.

(3) On an appeal against sentence the Court of Appeal shall, if it thinks that a different sentence should have been passed, quash the sentence passed at the trial, and pass such other sentence warranted in law by the verdict, whether more or less severe, in substitution therefor as it thinks ought to have been passed, and in any other case shall dismiss the appeal.

(4) Where apart from this section—

(a) an appeal against a special verdict under section 184 of the Criminal Procedure Code would fall to be allowed; and

(b) none of the grounds for allowing it relates to the question of the insanity of the accused,

the Court of Appeal may dismiss the appeal if of opinion that, but for insanity of the accused, the proper verdict would have

been that he was guilty of an offence other than the offence charged.

(5) (a) An appellant who is to be retried for an offence in pursuance of an order under this section shall be tried upon a fresh indictment preferred by the direction of the Court of Appeal;

(b) the Court of Appeal may, upon ordering a retrial, make such orders as appear to the Court of Appeal to be necessary or expedient for the custody or admission to bail of the appellant pending the retrial, or for the retention pending the retrial of any property, or money forfeited, restored or paid by virtue of the original conviction or any order made on that conviction;

(c) on a retrial ordered under this section, section 201 of the Criminal Procedure Code (relating to the admissibility of depositions as evidence in certain cases) shall not apply to the depositions of any person who gave evidence at the original trial; but a transcript of the shorthand notes or, where there are no shorthand notes, of the Judge's notes of the evidence given by any witness at the original trial may, with the leave of the Judge, be read as evidence—

Cap. 77-1958

(i) by agreement between the prosecution and the defence; or

(ii) if the Judge is satisfied that the witness is dead or unfit to give evidence or to attend for that purpose, or is absent from Grenada or that all reasonable efforts to find him or to secure his attendance have been made without success;

and in either case may be so read without further proof if verified in accordance with rules of court.

42. (1) If it appears to the Court of Appeal that an appellant, though not properly convicted on some count or part of the indictment, has been properly convicted on some other count or part of the indictment, the Court of Appeal may either affirm the sentence passed on the appellant at the trial, or pass such sentence in substitution therefor as it thinks proper as may be warranted in law by the verdict on the count or part of

Powers of
Court of
Appeal in
special cases

the indictment on which the Court of Appeal considers that the appellant has been properly convicted.

(2) Where an appellant has been convicted of an offence and the jury could on the indictment have found him guilty of some other offence, and on the finding of the jury it appears to the Court of Appeal that the jury must have been satisfied of facts which proved him guilty of that other offence, the Court of Appeal may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of that other offence, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law for the other offence, not being a sentence of greater severity.

(3) Where on the conviction of the appellant the jury have found a special verdict, and the Court of Appeal considers that a wrong conclusion has been reached by the court before which the appellant has been convicted on the effect of that verdict, the Court of Appeal may, instead of allowing the appeal, order such conclusion to be recorded as appears to the Court of Appeal to be in law required by the verdict and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law.

Cap. 77-1958 (4) Where on an appeal it appears to the Court of Appeal that the proper verdict would have been a special verdict under section 184 of the Criminal Procedure Code, the Court of Appeal may quash the sentence passed at the trial and order the appellant to be kept in custody as a prisoner of unsound mind under the provisions of the said section in the same manner as if a special verdict had been found by the jury under that section.

Supplementary provisions where appeal against special verdict allowed
Cap. 77-1958

43. (1) Where in accordance with section 41(1) an appeal against a special verdict under section 184 of the Criminal Procedure Code is allowed—

(a) if the ground, or one of the grounds for allowing the appeal is that the finding of the jury as to the insanity of the accused ought not to stand and the Court of Appeal is of opinion that the proper verdict would have been that he was guilty of an offence (whether the offence charged or any other offence of which the jury could

have found him guilty), the Court of Appeal shall substitute for the special verdict a verdict of guilty of that offence, and shall have the like powers of punishing or otherwise dealing with the accused and other powers as the court before which he was tried would have had if the jury had come to the substituted verdict;

(b) in any other case, the Court of Appeal shall substitute for the verdict of the jury a verdict of acquittal:

Provided that where the offence mentioned in paragraph (a) of this subsection is one for which the sentence is fixed by law, the sentence shall (whatever the circumstances) be one of imprisonment for life.

(2) The term of any sentence passed by the Court of Appeal in the exercise of the powers conferred by subsection (1)(a) of this section shall, unless the Court of Appeal otherwise directs, begin to run from the time it would have begun to run if passed in the proceedings in the court before which the accused was tried.

44. (1) The operation of an order for the restitution of property to any person made on a conviction on indictment shall, unless the court before whom the conviction takes place directs to the contrary, in any case in which in its opinion the title to the property is not in dispute, be suspended—

Restitution of property on conviction

(a) in any case until the expiration of fourteen days after the date of conviction; and

(b) in cases where notice of appeal or leave to appeal is given within fourteen days after the date of conviction, until the determination of the appeal,

and in any case where the operation of such an order is suspended until the determination of the appeal, the order shall not take effect as to the property in question if the conviction is quashed on appeal.

(2) Provision may be made by rules of court for securing the safe custody of property pending the suspension of the operation of such an order.

(3) The Court of Appeal may by order annul or vary any order made on a trial for the restitution of property to a person,

although the conviction is not quashed; and the order if annulled shall not take effect, and, if varied, shall take effect as so varied.

Supplementary powers of Court of Appeal in criminal appeals

45. For the purposes of an appeal in any criminal cause or matter the Court of Appeal may, if it thinks it necessary or expedient in the interests of justice—

- (a) exercise any or all the powers conferred by section 36 on the Court of Appeal;
- (b) issue any warrant necessary for enforcing any order or sentence of the Court of Appeal:

Provided that—

- (i) in no case shall any sentence be increased by reason of or in consideration of any evidence that was not given at the trial; and
- (ii) whenever the Court of Appeal receives further evidence it shall make such order as will secure an opportunity to the parties to the proceedings to examine every witness whose evidence is taken.

Duty to admit fresh evidence

46. Without prejudice to the generality of section 45, where evidence is tendered to the Court of Appeal under that section, the Court of Appeal shall, unless it is satisfied that the evidence if received would not afford any ground for allowing the appeal, exercise its power under that section of receiving it if—

- (a) it appears to it that the evidence is likely to be credible and would have been admissible at the trial on an issue which is the subject of the appeal; and
- (b) it is satisfied that it was not adduced at the trial, but that there is a reasonable explanation for the failure so to adduce it.

Admission of appellant to bail and custody when attending court

47. (1) An appellant who is not admitted to bail shall, pending the determination of his appeal, be treated in like manner as prisoners awaiting trial.

(2) The Court of Appeal may, if it seems fit, on the application of an appellant, admit him to bail pending the determination of his appeal.

48. (1) The time during which an appellant is in custody pending the determination of his appeal shall, subject to any direction which the Court of Appeal may give to the contrary, be reckoned as part of the term of any sentence to which he is for the time being subject; but the Court of Appeal shall not give any such direction where leave to appeal has been granted or a certificate has been given under section 40 or where the case has been referred to it under section 60.

Computation of sentence

(2) Where the Court of Appeal gives a direction under this section, it shall state its reasons for giving the direction.

(3) Provision shall be made by prison rules for the manner in which an appellant, when in custody, is to be brought to any place at which he is entitled to be present for the purposes of this Act, or to any place to which the Court of Appeal or a Judge thereof may order him to be taken for the purposes of any proceedings of that Court, and for the manner in which he is to be kept in custody while absent from prison for such purpose; and an appellant whilst in custody in accordance with those rules shall be deemed to be in legal custody.

49. (1) Where a person convicted desires to appeal under this Act to the Court of Appeal or to obtain leave of the Court of Appeal, he shall give notice of appeal or notice of his application for leave to appeal in such manner as may be directed by rules of court within fourteen days of the date of conviction.

Time for appealing

(2) Except in the case of a conviction involving sentence of death, the time within which notice of an application for leave to appeal may be given may be extended at any time by the Court of Appeal.

(3) For the purposes of this section the date of conviction shall, where the High Court has adjourned the trial of an indictment after conviction, be the date on which that Court sentences or otherwise deals with the offender.

50. In the case of a conviction involving sentence of death or corporal punishment—

Stay of execution

(a) the sentence shall not in any case be executed until the expiration of the time within which notice of appeal or of an application for leave to appeal may be given under the preceding section; and

(b) if notice is so given, the appeal or application for leave to appeal, as the case may be, shall be heard and determined with as much expedition as practicable, and the sentence shall not be executed until after the determination of the appeal, or, in cases where an application for leave to appeal is finally refused, of the application.

Judge's
notes and
report to be
furnished on
appeal

51. The Judge before whom a person is convicted shall, in the case of an appeal under this Act against the conviction or against the sentence or in the case of an application for leave to appeal under this Act, furnish to the Registrar in accordance with rules of court his notes of the trial, and he shall also furnish to the Registrar in accordance with rules of court a report giving his opinion upon the case or upon any point arising in the case.

Legal
assistance to
appellant

52. The Court of Appeal may at any time assign to an appellant a solicitor and counsel, or counsel only, in any appeal or proceedings preliminary or incidental to an appeal where in the opinion of the Court of Appeal it appears desirable in the interests of justice that the appellant should have legal aid and he has not sufficient means to enable him to obtain that aid.

Right of
appellant to
be present

53. (1) An appellant notwithstanding that he is in custody shall be entitled to be present, if he desires it, on the hearing of his appeal except where the appeal is on some ground involving a question of law alone, but in that case and on an application for leave to appeal and on any proceedings preliminary or incidental to an appeal, he shall not be entitled to be present except where rules of court provide that he shall have the right to be present or where the Court of Appeal gives him leave to be present.

(2) An appellant who does not appear at the hearing of his appeal by counsel, may present his case and argument in writing, and any case or argument so presented shall be considered by the Court of Appeal.

(3) The power of the Court of Appeal to pass any sentence under this Act may be exercised notwithstanding that the appellant is for any reason not present.

(4) The reference in subsection (1) to an appellant being in custody shall not include a reference to his being in custody in consequence of a special verdict under section 184 of the Criminal Procedure Code.

Cap. 77-1958

54. (1) On the hearing and determination of a criminal appeal from the High Court or any proceedings preliminary or incidental thereto under this Act no costs shall be allowed on either side.

Costs of appeal

(2) The expenses of a solicitor or counsel assigned to an appellant under this Act, and the expenses of witnesses attending on the order of the Court of Appeal or examined in any proceedings incidental to the appeal, and of the appearance of an appellant on the hearing of his appeal or on any proceedings preliminary or incidental to the appeal, and all expenses of and incidental to an examination of witnesses conducted by a person appointed by the Court of Appeal for the purpose, or a reference of a question to a special commission appointed by the Court of Appeal or of a person appointed to be an assessor to the Court of Appeal, shall be defrayed out of moneys up to an amount allowed by the Court of Appeal but subject to rules of court as to rates and scales of payment.

55. (1) The Registrar shall take all necessary steps for obtaining hearing under this Act of appeals or applications notice of which is given to him under this Act, and shall obtain and lay before the Court of Appeal in proper form all documents, exhibits, and other things relating to the proceedings in the court before which the appellant or applicant was tried, which appear necessary for the proper determination of the appeal or application.

Duties of
Registrar
with respect
to appeals

(2) If it appears to the Registrar that notice of an appeal against a conviction, purporting to be on a ground of appeal which involves a question of law alone, does not show any substantial ground of appeal, the Registrar may refer the appeal to the Court of Appeal for summary determination, and where the case is so referred, the Court of Appeal, if it considers that the appeal is frivolous or vexatious and can be determined without adjourning the same for a full hearing, may dismiss the appeal summarily, without calling on any persons to attend the hearing or to appear for the Crown thereon.

(3) Any documents, exhibits, or other things connected with the proceedings on the trial of a person on indictment, who, if convicted, is entitled or may be authorized to appeal under this Act shall be kept in custody of the court of trial in accordance with rules of court made for the purpose for such time as may be provided by the rules, and subject to such powers as may be given by the rules for the conditional release of any such documents, exhibits, or things from that custody.

(4) The Registrar shall furnish the necessary forms and instructions in relation to notices of appeal or notices of application for leave to appeal under this Act to any person who demands the same, and to such officers or persons as he thinks fit, and the Commissioner of Prisons shall cause those forms and instructions to be placed at the disposal of prisoners desiring to appeal or to make any application for leave to appeal under this Act, and shall cause any such notice given by a prisoner in his custody to be forwarded on behalf of the prisoner to the Registrar.

(5) The Registrar shall report to the Court of Appeal or a Judge thereof any case in which it appears to him that, although no application has been made for the purpose, a solicitor and counsel, or counsel only, ought to be assigned to an appellant under the powers given to that Court by this Act.

(6) In this section and in the next following section the expression "Registrar" includes the Chief Registrar and the Deputy Registrar of the Court of Appeal.

56. (1) Such records in such manner, whether in writing by shorthand notes or otherwise, or by recordings or electromagnetic tape or by other means as may be prescribed by rules of court, shall be taken of the proceedings at the trial of a person on indictment who, if convicted, is entitled or may be authorized to appeal under this Act; and on any appeal or application for leave to appeal a transcript of the records or any part thereof shall be made, if the Registrar so directs, and furnished to the Chief Registrar for the use of the Court of Appeal or any Judge thereof.

(2) A transcript of the records taken under subsection (1) shall be furnished to any party interested upon payment of such charges as may be fixed by rules of court.

(3) Rules of court may also make such provision as is necessary for securing the accuracy of the records to be taken and for the verification of the transcript.

57. The powers of the Court of Appeal under this Act—

- (a) to give leave to appeal;
- (b) to extend the time within which notice of appeal or of an application for leave to appeal may be given;
- (c) to assign legal aid to an appellant;
- (d) to allow the appellant to be present at any proceedings in cases where he is not entitled to be present without leave; or
- (e) to admit an appellant to bail,

Powers which
may be
exercised by
Judge of
Court of
Appeal

may be exercised by any Judge of the Court of Appeal in the same manner as they may be exercised by the Court of Appeal, and subject to the same provisions; but, if the Judge refuses an application on the part of the appellant to exercise any such powers in his favour, the appellant shall be entitled to have the application determined by the Court of Appeal as duly constituted for the hearing and determination of appeals under this Act.

58. (1) Where any person is convicted on indictment, the trial Judge may state a case or reserve a question of law for the consideration of the Court of Appeal and the Court of Appeal shall consider and determine such case stated or question of law reserved and may either—

Case stated
or questions
of law
reserved

- (a) confirm the judgment given upon the indictment;
- (b) order that such judgment be set aside and quash the conviction and direct a judgment and verdict of acquittal to be entered;
- (c) order that such judgment be set aside, and give instead thereof the judgment which ought to have been given at the trial;
- (d) require the Judge by whom such case has been stated or question has been reserved to amend such statement or question when specially entered on the record; or
- (e) make such other order as justice requires.

(2) The Court of Appeal, when a case is stated or a question of law reserved for its opinion, shall have power, if it thinks fit, to cause the case or certificate to be sent back for amendment and thereupon the same shall be amended accordingly.

Provisions
of this Act
applicable to
proceedings
under
section 58

59. Where a case is stated or a question of law is reserved for the consideration of the Court of Appeal the provisions of sections 45, 46, 48, 50, 51, subsections (1), (3) and (5) of section 53, section 54 and section 55 shall apply to such proceedings in like manner as they apply to an appeal.

Prerogative
of mercy

60. (1) Nothing in this Act shall affect the prerogative of mercy.

(2) The Governor-General on the consideration of any petition for the exercise of Her Majesty's mercy having reference to the conviction of a person on indictment or to the sentence, other than sentence of death, passed on a person so convicted, may at any time—

- (a) refer the whole case to the Court of Appeal, and the case shall then be heard and determined by the Court of Appeal as in the case of an appeal by a person convicted; or
- (b) if the Governor-General desires the assistance of the Court of Appeal on any point arising in the case with a view to the determination of the petition, the Governor-General may refer that point to the Court of Appeal for its opinion thereon, and the Court of Appeal shall consider the point so referred and furnish the Governor-General with its opinion thereon accordingly.

Criminal
information

61. This Act shall apply in the case of convictions on criminal information as it applies in the case of conviction on indictment.

Appeals
from orders
in contempt
proceedings

62. (1) An appeal shall lie to the Court of Appeal from any order made by the High Court or by a Judge of the High Court or of the Court of Appeal or by a magistrate imposing imprisonment or a fine for contempt of court.

(2) Any person ordered by the High Court, or by any such Judge or magistrate to be imprisoned or to pay a fine for contempt of court, may at the time of such order or within

two days thereafter give notice to the High Court or to the Judge or magistrate making the order of his intention to appeal to the Court of Appeal and may within two days after giving such notice enter into a recognizance with a surety to the satisfaction of the Registrar of the High Court or of the Court of Appeal or clerk of the magistrate's court, as the case may be, in a sum not exceeding three hundred dollars to prosecute such appeal, and the giving of such notice and entering into such recognizance shall operate as a stay of such order.

(3) On such person entering into a recognizance the High Court or the Judge or magistrate making the order shall within twenty-one days thereafter transmit to the Registrar a statement of the cause of such committal or fine and upon such statement being received the Registrar shall within four days thereafter issue a summons, free of cost, calling on the appellant to appear before the Court of Appeal within a reasonable time thereafter and on a day to be named therein and the Court of Appeal shall hear and determine such appeal and either confirm the order or vary or quash such order; and the Court of Appeal may from time to time return the proceedings to the High Court or to the Judge or magistrate who made the order for further information.

(4) When the Court of Appeal confirms or varies the order, the High Court or the Judge or magistrate who made the order shall proceed to carry out and enforce the order as confirmed or varied in the same manner as if there had been no appeal against the same.

PART III

OFFICERS OF THE COURT

63. (1) There shall be a Registrar of the High Court who shall perform the duties of Provost Marshal and such duties as may be prescribed by rules of court or the Chief Justice or by any law or usage for the time being in force, and subject thereto he shall perform such duties as may be prescribed by rules of court.

Office of
Registrar

(2) Subject to subsection (1), the Registrar shall have such power and authority and shall perform such duties as shall

be necessary for the due conduct and discharge of the business of the High Court and the Court of Appeal as the Chief Justice or other Judge authorized by him in that behalf shall direct. He shall be subject to the general or special directions of the Chief Registrar and shall assist in the performance of his duties.

(3) The Registrar shall be *ex officio* a Deputy Registrar of the Court of Appeal.

(4) The Registrar shall be *ex officio* Admiralty Marshal.

Power of Registrar as Commissioner of Court
64. The Registrar shall be *ex officio* a Commissioner of the Court to administer oaths and take declarations and affirmations.

Registrar to be notary public
65. The Registrar shall be a notary public in Grenada, and as such shall be entitled to demand and receive the fees prescribed by law and to retain the same for his own use. Such fees shall not form part of his pensionable emoluments.

Appointment of Deputy Registrar and clerks
66. There shall be a Deputy Registrar and such clerks in the Registrar's Office as may appear to the Chief Justice to be necessary. The Deputy Registrar and the chief clerk to the Registrar shall be *ex officio* Commissioners of the Court to administer oaths and take declarations, affirmations and acknowledgments.

Duties and liabilities of Deputy Registrar
Cap. 55
67. (1) In the absence of the Registrar from duty the Deputy Registrar may, subject to the provisions of section 71, exercise all or any of the functions and authorities assigned to or conferred on the Registrar save and except the powers to make interlocutory orders and to issue process as are conferred on the Registrar by the Civil Procedure Act or rules of court; and all such acts done by the Deputy Registrar shall have the same effect in all respects as if they had been done by the Registrar.

(2) In the exercise of such functions and authorities the Deputy Registrar shall have all the privileges and liabilities of the Registrar.

Bailiffs
68. There shall be one or more bailiffs of the Court who shall be under the control of the Registrar, and shall perform

such duties as he shall direct. The senior bailiff shall perform the duties of the crier of the Court and shall, unless otherwise directed by the Court, attend at and during every sitting thereof.

69. (1) The Chief Registrar shall have and exercise in relation to Grenada such functions as may be conferred upon him by this Act or by any other written law or by rules of Court. Chief Registrar

(2) Without prejudice to the generality of the provisions of this section, the Chief Registrar shall take all necessary steps for obtaining a hearing under this Act of any appeals or applications, and shall obtain and lay before the Court of Appeal in proper form all documents, exhibits and other things relating to the proceedings in the court before which the case, or the appellant or applicant, was tried which appear necessary for the proper determination of the appeal or application.

70. Except as in this Act otherwise expressly provided every person who at the commencement of this Act holds the office of Registrar, Deputy Registrar, or bailiff, shall continue to hold such office on the terms on which he now holds it, and nothing in this Act contained shall affect the validity and effect of any bond previously given by any of the said officers. Present officers of Court

71. (1) The Chief Registrar, and in his absence the Registrar, shall be the Taxing Master for the Court. He shall tax all bills of costs in accordance with the scales for the time being in force. Taxation of costs

(2) Every taxation of costs shall be subject to rules of court and be subject to review by a Judge in Chambers.

72. Whenever the Registrar is on leave, or ill or otherwise unable to perform the duties of his office the Governor-General, acting in accordance with the advice of the Judicial and Legal Services Commission, may appoint a fit and proper person to act, in the office of Registrar, and such person whilst so acting, shall have all the powers, and be charged with all the duties of the Registrar. Acting Registrar

73. (1) The office of the Registrar shall be kept open for the transaction of business on every day of the year except Saturdays, Sundays, Christmas Day, Good Friday and Bank Hours of business

Holidays, during such hours of the day as the Governor-General may by Order appoint.

(2) Notwithstanding the provisions of any Order made under subsection (1), the Judge by whom any matter is being heard may direct any paid officer of the Court to transact at any time any business which, in the opinion of the Judge, is necessary or convenient to facilitate the hearing and determination of the matter in question, or to carry into effect any order made in connection therewith.

Chief Registrar, Registrar, Deputy Registrar, clerks, and bailiffs, not to advise litigants, etc.

74. It shall not be lawful for the Chief Registrar, the Registrar, the Deputy Registrar or any clerk to the Registrar, or any bailiff of the Court, to act as attorney, agent or adviser of a plaintiff, defendant or other suitor, or party in or to any proceedings in any court in Grenada or to give advice on any legal matter, or act as conveyancer, or accept any gratuity for the performance of any duty in connection with his office.

Misconduct of officers of Court

75. (1) If any officer of the Court is charged with extortion, or with not duly paying or accounting for any money received by him in the execution of his duty or by virtue of his position, or with any fraud, wrongful act, or neglect in the discharge of the duties of his office, a Judge of the High Court may—

- (a) inquire into the matter in a summary way, on affidavit, or on such other evidence as shall appear reasonable to him, and for that purpose, summon and enforce the attendance of all necessary parties and witnesses in like manner as the attendance of witnesses may be enforced in any other proceedings; and
- (b) thereupon dismiss the charge, or order the officer to pay any moneys or damages which, in the opinion of the Judge, that officer ought in the circumstances to pay, and also impose such fine, if any, as he may think fit on that officer.

(2) The costs of every such inquiry shall be in the discretion of the Judge, and may be ordered to be paid by the officer or by the person laying the charge.

(3) Every order made under this section may be enforced as an order of the High Court.

(4) No proceedings taken, or order made, under this section shall prevent the officer from being prosecuted criminally for any offence committed by him, or affect any right of action which any person may have against him, or the power of the Governor-General or the appropriate service commission to suspend or dismiss the officer.

(5) In subsection (4) "appropriate service commission" means the Judicial and Legal Services Commission or the Public Service Commission, as the case may be.

PART IV

BARRISTERS AND SOLICITORS

76. (1) Every person entitled, at the commencement of this Act, to practise in Grenada as a barrister or as a solicitor, may continue to practise and shall be a barrister or solicitor, as the case may be, of the Court.

Existing practitioners

(2) Every person holding any of the offices to which this subsection applies shall, so long as he continues to hold such office, be *ex officio* a barrister of the Court, and shall be deemed to be enrolled as a barrister in accordance with the provisions of this Act.

(3) Subsection 2 applies to the offices of Attorney-General and Director of Public Prosecutions and to every public office in the Department of the Attorney-General and the Department of the Director of Public Prosecutions for appointment to which persons are required to be qualified to practise as barristers in Grenada.

77. (1) Subject to the provisions of subsection (2) a Judge of the High Court may admit—

Admission of barrister and solicitor

- (a) any member of the English, Scottish, Northern Ireland or Canadian Bar to practise as a barrister of the Court; and
- (b) any person who has been admitted as a solicitor or writer in any of the Superior Courts in England, Scotland or Northern Ireland to practise as a solicitor of the Court:

Provided that, upon cause shown, any application to be so admitted may be refused notwithstanding that the applicant has complied with the provisions of the said subsection:

Provided further that no refusal by a Judge of any such application shall be final, but any application so refused by such Judge shall, if the applicant shall so require by notice in writing to the Registrar, be laid before and dealt with by the Court of Appeal.

(2) Every person applying to be admitted as a barrister or solicitor under the provisions of this Act shall—

(a) pay the appropriate fee prescribed under the provisions of the Stamp Act in respect of such admission;

(b) file in the office of the Registrar an affidavit of his identity, and that he has paid the fee aforesaid; and

(c) deposit with the Registrar for inspection by the Court his certificate of call to the English, Scottish, Northern Ireland or Canadian Bar, or his certificate of admission as a solicitor or writer in any of the Supreme Courts in England, Northern Ireland or Scotland; and

(d) in respect only of a person applying to be admitted as a barrister and who was called to the English Bar after the 1st January, 1966, have either—

(i) obtained a certificate issued by the Council of Legal Education of London, England, that he has satisfactorily completed a practical training course provided by the said Council and approved by the Chief Justice for the purposes of this section; or

(ii) obtained a certificate signed by his pupil master and countersigned on behalf of his Inn of Court that he has either before or after Call, or partly before and partly after Call, read as a pupil for an aggregate period of not less than six months in the chambers of one or more barristers of not less than five years standing practising in England or in Wales or in the chambers of one or more barristers of not less than ten years standing practising in Grenada:

Provided that in any special case the Judge may exempt any such person from depositing, or producing any of the said

Cap. 309

certificates, if otherwise satisfied that that person has the required qualifications.

(3) The provisions of subsection (2)(d) shall not apply to a person whose certificate under subsection (2)(c) was obtained before the 1st January, 1966.

78. (1) The Registrar shall enrol in a book kept for that purpose, and to be known as the Court Roll, the name of every person admitted to practise as a barrister or solicitor of the Court, with the date of his admission, and every such person shall be entitled to a certificate of enrolment under the seal of the Court.

Enrolment of
practitioners
and right of
audience in
Supreme
Court

(2) Every person whose name is so enrolled shall, if enrolled as a barrister, be entitled to practise as a barrister, and, if enrolled as a solicitor, be entitled to practise as a solicitor in every court in Grenada and no person shall be entitled to practise in any such court unless his name is enrolled in the said book.

(3) A solicitor shall be allowed audience in any cause or matter in the High Court or the Court of Appeal.

79. Subject to the provisions of section 80, every person enrolled as a barrister shall be entitled to practise also as a solicitor, and to sue for and recover his taxed costs as such, but if he practises as a solicitor he shall be subject to all the liabilities which attach by law to a solicitor.

Barristers
practising as
solicitors

80. (1) Except as otherwise provided in subsection (2) no barrister who has the rank of Queen's Counsel shall perform any of the functions which in England are performed by a solicitor and are not performed by a barrister; but a barrister who has the rank of Queen's Counsel shall not be precluded from continuing or engaging in partnership with another barrister by reason only that such last mentioned barrister performs any functions as aforesaid.

Queen's
Counsel

(2) Every person holding the office of Attorney-General may, notwithstanding that he has the rank of Queen's Counsel, perform the functions mentioned in section 79 in relation to the duties of his office as Attorney-General.

Solicitors and commissioners for oaths to be officers of Court

81. (1) Every person practising as a solicitor and whose name shall be enrolled as aforesaid, either as a barrister or solicitor, shall be deemed to be an officer of the Court.

(2) Every person who, under the provisions of any written law is or shall be appointed a commissioner to administer oaths in the Court, shall be deemed to be an officer of the Court.

Barristers and solicitors may be suspended or struck off roll

82. Any two Judges of the High Court may, for reasonable cause, suspend any barrister or solicitor from practising in Grenada during any specified period, or may order his name to be struck off the Court Roll.

Unauthorized persons drawing legal documents

83. Every person who not being enrolled as a barrister or solicitor or otherwise lawfully authorized shall, either directly or indirectly, for or in expectation of any fee, gain or reward, draw or prepare any legal document or shall receive any fee, gain or reward for drawing or preparing any such document, shall be guilty of an offence and liable, on summary conviction, to a fine of three hundred dollars.

Law relating to solicitors, taxation and recovery of costs

84. Subject to rules of court, the law and practice relating to solicitors and the taxation and recovery of costs in force in England shall extend to and be in force in Grenada, and shall apply to all persons lawfully practising therein as solicitors of the Court.

PART V

SOLICITORS' EXAMINATIONS

Admission of solicitors on examination

85. Subject to the provisions of this Part, a Judge of the High Court shall have power to admit and enrol as a solicitor of the Court any fit person who has served under articles of clerkship for a term of five years continuously in the office of a practising barrister or solicitor residing in Grenada and who has passed such examination touching the principles and the practice of the law as may be prescribed by rules made by the Chief Justice. Every such person shall before admission take and subscribe before the Court the oath or declaration following—

“I, A. B. do swear (or, solemnly and sincerely declare) that I will truly and honestly demean myself in the practice of a solicitor according to the best of my knowledge and ability—(and, in the case of an oath) SO HELP ME GOD.”

86. Notwithstanding section 85, a person having taken the degree of bachelor of arts or bachelor of laws in any of the universities of England, Wales, or Northern Ireland, or the degree of bachelor of arts, master of arts, bachelor of laws or doctor of laws in any of the universities of Scotland, such degree not being an honorary degree, and who either before or after the passing of this Act has been bound by and has duly served under articles of clerkship to a barrister or solicitor, practising in Grenada, for a term of three years and has been examined in manner directed by this Act, may be admitted and enrolled as a solicitor of the Court.

Person taking certain degree and passing prescribed examination may be admitted and enrolled as a solicitor after three years service

87. Notwithstanding section 85 and section 86, in the case of any person who before entering into articles has been for ten years a *bona fide* clerk to a practising barrister or solicitor and has, during that time been *bona fide* engaged in the transaction and performance under the direction and superintendence of that barrister or solicitor of such matters of business as are usually transacted and performed by barristers or solicitors, and who produces to the Chief Justice satisfactory evidence that he has served faithfully, honestly and diligently as such, the length of the term of articulated service shall be three years.

Length of articles of clerkship in case of a *bona fide* barrister's or solicitor's clerk of ten years service

88. No person shall enter into articles of clerkship with a barrister or solicitor unless he has passed either a preliminary or a qualifying examination.

Preliminary and qualifying examinations

89. Any person who has taken one of the degrees or has passed one of the examinations set forth in the Schedule shall be deemed to have passed a qualifying examination.

Definition of qualifying examination

90. All articles of clerkship executed after the commencement of this Act shall, within three months from the date thereof, be registered under this Act and upon registration the service

Time within which articles to be registered

of the clerk shall be reckoned to commence from the date of the articles of clerkship.

Effect of registration after prescribed time

91. If articles of clerkship are not registered within the period of three months hereinbefore mentioned they may be subsequently registered but, in that case, the service of the clerk shall be reckoned to commence from the date of the registration unless the Chief Justice shall otherwise direct.

Procedure on registration

92. (1) A person desiring to register articles of clerkship shall produce the same to the Registrar together with the document evidencing the fact that he has passed a preliminary or qualifying examination, and the Registrar on being satisfied that the applicant has passed the preliminary or a qualifying examination and that the articles have been duly executed shall enter in a book to be called the Articled Clerks Book the names and addresses of the parties to and the date of the articles and the date of entry, and shall also enter the examination passed or degree taken and the date of passing or of the taking of the degree as the case may be.

(2) The Registrar may before making any such entry as aforesaid require the execution of articles to be verified by affidavit.

Inspection of register

93. The Articled Clerks Book shall, during office hours, be open to inspection by any person without payment of a fee.

Cancellation or assignment of articles on bankruptcy of barrister or solicitor

94. If a barrister or solicitor to whom a person shall be bound under the articles of clerkship shall, before the end or determination of such articles, become bankrupt a Judge of the High Court may, upon his application, order the articles to be cancelled or assigned to such other barrister or solicitor upon such terms and in such manner as that Judge shall think fit.

Entry into fresh articles on death, etc., of barrister or solicitor

95. If a barrister or solicitor to whom a person shall be bound under articles of clerkship shall die before the expiration of the term for which such person shall be so bound, or shall discontinue or leave off his practice as a barrister or solicitor, or if such articles of clerkship shall by mutual consent of the parties be cancelled, or in case such clerk shall be legally discharged before the expiration of such term by

any rule or order of the High Court, the clerk may enter into other articles of clerkship to serve as a clerk to any other barrister or solicitor during the residue of the said term, and service under such second or other contract in manner hereinbefore mentioned shall be deemed to be good and effectual.

96. No barrister or solicitor shall have more than one articled clerk at one and the same time.

Restriction as to number of clerks articled to barrister or solicitor

97. Every articled clerk shall, during the term of service specified in his articles, continue with, and be actually employed by, the barrister or solicitor to whom he is bound in the proper business, practice, or employment of a solicitor, except only in the cases hereinbefore mentioned.

Continuous service by articled clerk

98. (1) Notwithstanding anything in section 85 the Governor-General may, at any time at the request of the Chief Justice, enter into an arrangement with the Law Society of England to conduct the examination of articled clerks touching their fitness and capacity to act as solicitors and may do all things necessary to carry out such arrangement.

Arrangement with Law Society to conduct examinations

(2) Where such arrangement has been made, the examination or examinations conducted by the Law Society shall be substituted for the examination mentioned in section 85 as from such day as may be fixed by rules made under this Act.

99. The Governor-General may by Order add to or amend the Schedule.

Power to amend Schedule

PART VI

WITNESSES

100. It is a summary offence if any person served with a subpoena to attend as a witness in any proceeding before a Judge of the High Court sitting in Court or in Chambers or before the Court of Appeal shall refuse or neglect to attend

Disobedience to subpoena

pursuant to such subpoena, and the Judge or the Court of Appeal may punish such offence by a fine of one thousand five hundred dollars, or by commitment to prison for any term not exceeding six months:

Provided that nothing contained in this section shall affect or abridge any right of a party to the proceeding to proceed against such person for the recovery of any special damage such party may have sustained by reason of the disobedience of such person.

Witnesses' expenses in criminal proceedings

101. (1) A Judge of the High Court may, in or in respect of any criminal proceedings before him, order allowances not exceeding those prescribed by rules of court, to be paid to all persons examined or detained as witnesses for the Crown, whether examined before the magistrate or not, and also to all persons examined or detained as witnesses for the defence, who shall have been examined before the magistrate, and who shall have been bound over to appear before the High Court at the trial:

Provided that the Judge may, if he shall think fit, order a similar allowance to be paid to any person examined at the trial as a witness for the defence notwithstanding that such person was not examined before the magistrate.

(2) If any person (except a medical practitioner giving professional evidence, whose allowance shall, under this section, be ordered to be paid) shall reside at a greater distance than one mile from the Court at which such trial takes place, the Judge may order to be paid to such person for and in respect of his travelling expenses such further allowance as may be prescribed by rules of court:

Provided that in the case of medical practitioners whose whole time is given to the public service, and who are therefore under the provisions of subsection (3) disqualified from receiving an allowance for attendance, the Judge may notwithstanding order the payment of an allowance for travelling expenses in accordance with this subsection.

(3) When a person called or detained as aforesaid as a witness either for the Crown or the defence is in receipt of a salary as a public officer, such person shall not, unless his whole time is not at the disposal of the Government, by reason of

his enjoying private practice or otherwise, be entitled to be paid any allowance under this Act for attendance as a witness beyond the travelling expenses provided for by subsection (2).

102. A Judge may, in any proceeding pending before him, order any person present to give evidence therein, notwithstanding that no *viaticum* or other payment to which he was entitled, shall have been paid or tendered to him.

Persons present in Court may be ordered to give evidence

PART VII

MISCELLANEOUS

103. (1) Subject to the provisions of this and the next following section, the High Court and the Court of Appeal, for the purpose of exercising the jurisdiction and powers conferred on them respectively by this Act and any other written law, may sit either in Grenada or in any of the States to which the Courts Order applies.

Sittings of the Courts

(2) Sittings of the High Court for the trial of civil and criminal causes originating in Grenada shall be held at such times as may be prescribed by rules of court and shall be held in the town of Saint George except in cases where the Chief Justice gives special directions that the High Court shall sit at some other place.

(3) Sittings of the Court of Appeal shall be held at such times and at such place as the Chief Justice may by general or special directions appoint.

(4) Notice of the times appointed for the sittings of the High Court and of the Court of Appeal shall be published in the *Gazette*.

104. (1) In the absence of a Judge, any interlocutory or other application which may be made to a Judge in Chambers may be reduced to writing and transmitted under the seal of the Court by the Registrar to the Judge to whom it shall be directed together with such affidavits and documents as the applicant shall think necessary.

Interlocutory applications

(2) The Judge's order in writing thereon shall be deemed to be the order of the Court.

(3) No such application shall be made unless the Registrar shall certify that to the best of his belief all parties liable to be affected by the order sought and entitled to be heard against the same have had due notice thereof and have had an opportunity of transmitting any counter-affidavits or other documents in opposition thereto.

Expenses in
criminal
proceedings

105. In every criminal proceeding all expenses consequent on or incidental to the transmission of progress, the conveyance of prisoners and the trial, determination of or dealing with such proceedings, including all allowances payable to jurors and all allowances ordered to be paid to witnesses under section 101, shall be paid out of moneys provided by Parliament.

Remission or
reduction of
fines

106. Any fine or penalty imposed by a Judge may, at any time before it has been paid or satisfied, be reduced or remitted by him.

Registrar to
have custody
of records of
Ordinances,
Acts, etc.

107. All records and copies of Ordinances, Acts and laws of Grenada now in the custody of the Registrar shall remain in his custody. It shall be the duty of the Governor-General to furnish to the Registrar a true copy of every Act of the Parliament of Grenada hereafter passed, authenticated under the hand of the Governor-General and the Public Seal of Grenada as soon as may be after the passing thereof, and every such copy shall be deemed as valid as the original and shall be preserved in the office of the Registrar.

Power to
make rules

108. (1) The power to make rules of court conferred by the Courts Order on the Chief Justice and any other two Judges of the Supreme Court selected by him shall be deemed to include the power to add to, vary, repeal or revoke any existing rules of court or sections of the Civil Procedure Act or of any other statute regulating procedure in the Supreme Court and to substitute other provisions in lieu thereof.

Cap. 55*

*formerly Cap. 58—1958.

(2) The Chief Justice and any other two Judges of the Supreme Court selected by him may make rules for regulating proceedings in inferior courts, and may add to, vary, repeal or revoke any existing rules or any provisions of any statute regulating procedure in such courts.

(3) All rules of court in force immediately before the commencement of this Act shall continue in force until revoked.

(4) The Chief Justice and any other two Judges of the Supreme Court selected by him may make rules—

- (a) with respect to the subjects for, and the mode of, conducting the preliminary or final examination of solicitors;
- (b) with respect to the times and places of such examinations and the notices of examinations;
- (c) with respect to the certificates to be given to persons of their having passed any such examination;
- (d) with respect to the appointment or removal of examiners;
- (e) with respect to the fees to be paid by candidates and the remuneration of examiners;
- (f) for the purpose of carrying into effect any arrangement made with the Law Society of England under section 98;
- (g) with respect to any other matter or thing as to which the Chief Justice thinks it expedient to make rules for the purpose of carrying this Act into effect.

109. Save as is otherwise provided by this Act or by rules of court, all forms and methods of procedure which under and by virtue of any law, custom or rule whatsoever were formerly in force in any of the courts the jurisdiction of which is vested in the High Court or the Court of Appeal respectively, and which are not inconsistent with this Act or with rules of court, may continue to be used in the High Court and the Court of Appeal respectively in the like cases and for the like purposes as those in and for which they have been applicable in the former respective courts.

Saving of
procedure

SCHEDULE (Sections 89 & 99)

QUALIFYING EXAMINATIONS

- A degree (other than an honorary degree) in arts or law at any of the Universities of England, Scotland, Wales or Northern Ireland.
 - The Matriculation or other corresponding examination of any of the Universities of England, Scotland, Wales or Northern Ireland.
 - The Responsions Examination at Oxford or the Previous Examination at Cambridge, or any examination accepted as exempting therefrom.
 - The School Certificate Examination or the Higher School Certificate Examination established by the Universities of Oxford and Cambridge.
 - The Preliminary Examination held by the Law Society of England.
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