



ST CHRISTOPHER AND NEVIS

CHAPTER 1.02

INTERPRETATION ACT

and Subsidiary Legislation

Revised Edition

showing the law as at 31 December 2009

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Cap. 1.03

This edition contains a consolidation of the following laws:

Interpretation Act

Act 12 of 1955 in force 28th February, 1955

Amended by Act 15 of 1965

Act 12 of 1967

Act 6 of 1976

Act 7 of 1976

Act 3 of 1984

Act 9 of 1986

Act 21 of 2000

Act 25 of 2001

Act 16 of 2007**Act 35 of 2009**

CHAPTER 1.02

INTERPRETATION ACT

ARRANGEMENT OF SECTIONS

1.	Short title.....	5
2.	Interpretation of certain terms.....	5
3.	General interpretation of gender and number.....	11
4.	Reference to public officers by title of office.....	12
5.	References to Crown.....	12
6.	Computation of time.....	12
7.	Provisions when no time prescribed.....	12
8.	Measurement of distances.....	12
9.	References to the number of a line.....	12
10.	Definitions in law to apply subject to context.....	13
11.	Time when law comes into operation.....	13
12.	Acts to be public Acts.....	13
13.	Sections to be substantive enactments.....	13
14.	Citation of original or revised Acts.....	13
15.	Citation of amended Acts.....	13
16.	Repeal of a repealing enactment.....	14
17.	Repeal and substitution.....	14
18.	Effect of repeal.....	14
19.	Effect of repeal on subsidiary legislation.....	14
20.	Construction of amending law with amended law.....	14
21.	General provision with respect to power given to any authority to make subsidiary legislation etc.....	15
22.	Commencement of subsidiary legislation.....	15
23.	Acts done under subsidiary legislation to be deemed done under law by which subsidiary legislation authorised.....	15
24.	Exercise of statutory powers between passing and commencement of Act.....	16
25.	Construction of provisions as to exercise of powers and duties.....	16
26.	Power to appoint includes power to remove, etc.....	16
27.	Power of Governor-General to provide for execution of duties of public officers during temporary absence or inability.....	16
28.	Power to the Governor-General to appoint public officers as such to serve on boards, etc., and to appoint chairperson.....	17

29.	Appointment of officers by name or office.	17
30.	Change in title of public office.	17
31.	Powers of a board etc. not affected by vacancy, etc.	18
32.	Construction of enabling words.	18
33.	Power of majority of more than two persons.	18
34.	Appointment of successor to office during leave of absence prior to retirement of substantive holder.	18
35.	Provisions as to offences under two or more laws.	18
36.	Attempt to commit an offence to be deemed an offence.	18
37.	Penalties prescribed to be maximum penalties.	19
38.	Disposal of forfeits.	19
39.	Imposition of penalty not to bar civil action.	19
40.	Imperial Acts to be read with necessary modifications.	19
41.	Evidence of signature of Director of Public Prosecutions.	20
42.	Reprint of amended laws.	20
43.	Rectification of errors.	20
44.	Forms.	20
45.	Amendment or repeal in same session.	20
46.	Affirmative Resolutions.	20
47.	Negative Resolutions.	21
48.	Saving of rights of the Crown.	21
49.	Law binding on Crown.	21

CHAPTER 1.02

INTERPRETATION ACT

AN ACT to make provision respecting the general principles of interpretation in relation to legislation; and to provide for related or incidental matters.

1. Short title.

This Act may be cited as the Interpretation and General Clauses Act.

GENERAL PRINCIPLES OF INTERPRETATION

2. Interpretation of certain terms.

(1) In this Act and in all other laws, and in all public documents, enacted, made or issued before or after the commencement of this Act, the following words and expressions shall have the meanings hereby assigned to them respectively, unless there is something in the subject or context inconsistent with such construction or unless it is therein otherwise expressly provided:

“Accountant-General” means the Accountant-General of the State and includes every person for the time being acting as Accountant-General in his or her stead;

“Act”, used in relation to legislation, shall include Act, or private enactment of the National Assembly and any subsidiary legislation made under the authority of any enactment;

[Amended by Act 6/1976]

“act”, used with reference to an offence or civil wrong, includes a series of acts, and words which refer to acts done extend to illegal omissions;

“action” includes “claim” as defined in the Eastern Caribbean Supreme Court Civil Procedure Rules, 2000;

[Inserted by Act 21/2000]

[Definitions of “Administrator” and “Administrator in Council” deleted by Act 7/1976]

“Attorney-General” means the Attorney-General of the State;

“British possession” means any part of Her Majesty’s dominions other than the United Kingdom, and shall be deemed to include India, South West Africa; any territory under Her Majesty’s protection, or any territory administered by the Government of any part of Her Majesty’s dominions under the trusteeship system of the United Nations;

“British West Indian Currency” means the currency issued by the Board of Commissioners of Currency, British Caribbean Territories (Eastern Group) under the provisions of the Currency Act;

“Chapter”, “Part”, “section”, “paragraph” and “Schedule” denote respectively a Chapter, Part, section and paragraph of, and Schedule to the Act in which the word occurs and “subsection” and “sub-paragraph” denote a subsection or sub-paragraph of the section or paragraph in which the word occurs;

“Chief Justice” means the Chief Justice of the Supreme Court of the Windward Islands and Leeward Islands;

“Christian name” means any name prefixed to a surname, whether received in Christian baptism or otherwise;

“coin” means any coin legally current in the State;

“commencement”, used with reference to a law, means the date on which the law comes into force;

“committed for trial”, used in relation to any person, means committed to prison with the view of being tried before a judge and jury by any authority having power to commit a person to prison with a view to his or her trial, and includes a person who is admitted to bail upon a recognisance to appear and take his or her trial before a judge and jury;

“common law” means the common law of England;

“constable” means a police officer who is not a subordinate police officer of the Police Force and includes a Local Constable appointed under the Local Constables Act;

“Consul” or “consular officer” includes Consul General, Consul, Vice-Consul, Consular Agent and any person for the time being authorised to discharge the duties of a Consul General, Consul or Vice-Consul;

“contiguous zone” means the contiguous zone of Saint Christopher and Nevis as defined in section 2 of the Maritime Areas Act, Cap. 7.03;

[Inserted by Act 3/1984]

“continental shelf” means the continental shelf of Saint Christopher and Nevis as defined in section 2 of the Maritime Areas Act, Cap. 7.03;

[Inserted by Act 3/1984]

“contravene”, with its grammatical variations and cognate expressions, in relation to any requirement or condition prescribed in any law, or in any permit, licence, or other authority, granted under or in pursuance of any law, includes a failure to comply with that requirement or condition;

“court” means any court of the State of competent jurisdiction;

“Court of Appeal” means the Court of Appeal of the Windward Islands and Leeward Islands constituted under the Windward Islands and Leeward Islands (Courts) Order-in-Council, 1959 (Imperial);

Revision Date: 31 Dec 2009

“Crown Agents” mean the persons for the time being acting in the United Kingdom as the Crown Agents for Overseas Governments and Administrations;

“day” means a full day of twenty-four hours, and when used in relation to any act or omission or occurrence shall commence at the first moment of the day on which such act, omission or occurrence is done or happens after midnight of the previous day and shall end at the last moment of the day on which such act, omission or occurrence as aforesaid is done or happens before midnight of such last mentioned day as aforesaid;

“Dominion” means a Dominion as defined in the Statute of Westminster, 1931;

“exclusive economic zone” means the exclusive economic zone of Saint Christopher and Nevis as defined in section 2 of the Maritime Areas Act, Cap. 7.03;

[Inserted by Act 3/1984]

“the *Gazette*” means the official gazette for the time being of the State;

“gazetted” means published in the *Gazette*;

“Government Printer” means any printer for the time being authorised by the Government to print the *Gazette* or any laws;

“Government officer” means any person for the time being in the employment of the Government of the State;

“Governor-General” means the person for the time being holding the office of the Governor-General of the State under the Constitution and includes any Acting Governor-General, Deputy Governor-General or person for the time being lawfully performing any of the functions of that office under the provisions of the Constitution;

[Inserted by Act 7/1976]

“Her Majesty” or “His Majesty”, “the Queen” or “the King” or “the Crown” means Her Majesty the Queen or His Majesty the King, the Sovereign for the time being of Great Britain and Northern Ireland and all British possessions, and includes the predecessors and the heirs and successors of such Queen or King;

“house” includes any messuage, part of a messuage, house, part of a house, building, or other construction, whether wholly or in part above or below the surface of the ground, inhabited or occupied either by day or by night by man or woman, whether beneficially or otherwise, or intended to be so inhabited or occupied;

“Imperial Act” or “Statute” means an Act passed by the Imperial Parliament and assented to by the Crown;

“Imperial Parliament” or “Parliament” means the Parliament of the United Kingdom;

“Judge” includes the Chief Justice and any Puisne Judge of the Supreme Court;

“a Justice” or “a Justice of the Peace” means a person appointed by the Minister to be a Justice of the Peace for the State;

[Amended by Act 6/1976]

“land” and “premises” includes all tenements or hereditaments, and also all messuages, houses, buildings, or other constructions, whether the property of the Crown, or of any corporation, or of any private individual, except where there are words to exclude houses and other buildings;

[Amended by Act 6/1976]

“law” includes any Act, Ordinance, Act of the Imperial Parliament and any subsidiary legislation or rule of court made or given under the authority of any law;

“Magistrate” means a District Magistrate and includes an Additional Magistrate;

“Master”, means a Master of the Eastern Caribbean Supreme Court;

[Inserted by Act 21/2000]

“master”, used with reference to a ship, means any person (except a pilot or harbour master) having for the time being control or charge of the ship;

“medical practitioner” or “duly qualified medical practitioner” or “registered medical practitioner” means any person duly registered or licensed to practise medicine under the provisions of any law for the time being applicable to medical practitioners;

“Minister” means the Minister appointed under the Constitution by the Governor-General and charged with responsibility for the department or subject to which the context refers;

[Inserted by Act 7/1976]

“National Assembly” means the National Assembly of the State;

“month” means a calendar month unless words be added showing lunar months to be intended;

“oath” and “affidavit”, in the case of persons for the time being allowed by law to affirm or declare instead of swearing, include affirmation and declaration, and “swear”, in the like case, includes “affirm” and “declare”;

“or”, “other” and “otherwise” are, unless a contrary intention appears, to be construed disjunctively and not as implying similarity, unless the word “similar” or some other word of like meaning is added;

“Ordinance” includes private Ordinance and any Act or private Act of the National Assembly and any subsidiary legislation made or given under the authority of any Ordinance;

Revision Date: 31 Dec 2009

“originating motion” or “originating summons” includes “fixed date claim” as defined in the Eastern Caribbean Supreme Court Civil Procedure Rules, 2000;

[Inserted by Act 21/2000]

“person” includes any corporation, either aggregate or sole, and any club, society, association or other body, of one or more persons;

“plaintiff” includes “claimant” as defined in the Eastern Caribbean Supreme Court Civil Procedure Rules;

[Inserted by Act 21/2000]

“Police Force” means the Saint Christopher and Nevis Police Force established and maintained under the Police Act;

“police officer” means a member of the Police Force;

“prescribed” means prescribed by the law in which the word occurs and, in relation to any subsidiary legislation, means prescribed by the Minister unless some other authority is mentioned in the law in which the word occurs;

[Amended by Act 6/1976]

“print”, with its grammatical variations and cognate expressions, includes reproduction or representation by means of a typewriter, roneo, cyclostyle or other similar apparatus or by any other method by which words, figures, signs or symbols may be reproduced or represented in visible form;

“Prison or Gaol” means the common prison or gaol of the State in which a person is committed to prison;

“property” includes money, goods, things in action, land and every description of property, whether real or personal; also obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incidental to property as herein defined;

“public holiday” means any day or part of a day which, under the provisions of any law for the time being in force, is or is declared to be or proclaimed as a public holiday;

“public place” includes every public highway, street, road, square, court, alley, land, bridleway, footway, parade, wharf, jetty, quay, bridge, public garden, or open space, and every theatre, place of public entertainment of any kind, or other place of general resort, admission to which is obtained by payment, or to which the public have access;

“recorded”, used with reference to a document, means recorded under provisions of the law applicable to the recording of such document;

“registered”, used with reference to a document, means registered under the provisions of the law applicable to the registration of such document;

- “Registrar” means the Registrar appointed for a Circuit of the Supreme Court of the Windward Islands and Leeward Islands in the State;
- “Registrar of the Court of Appeal” means the officer appointed under section 20 of the Windward Islands and Leeward Islands (Courts) Order in Council, 1959, to be Registrar of the said Court for the State;
- “rules of court”, when used in relation to any court, means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court;
- “sell”, with its grammatical variations and cognate expressions, includes exchange and barter;
- “Secretary of State” means one of Her Majesty’s Principal Secretaries of State for the time being;
- “the Secretary of State” means Her Majesty’s Secretary of State for the Colonies;
- “service by post”, where any law authorises or requires any document to be served by post, whether the expression “serve”, or the expression “give” or “send”, or any other expression is used, then, unless a contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post;
- “ship” means every description of vessel used in navigation not exclusively propelled by oars;
- “sign”, with its grammatical variations and cognate expressions, with reference to a person who is unable to write his or her name, includes “mark” with its grammatical variations and cognate expressions;
- “street” or “road” includes any public highway, street, road, thoroughfare, square, court, alley, lane, bridleway, footway, parade, passage, or open place used or frequented by the public, or to which the public have or are permitted to have access;
- “subsidiary legislation” means any regulation, rule, by-law, proclamation, order in council, order, direction, notice, form or other instrument made under any Act or other lawful authority and having legislative effect;
- “summary conviction” means summary conviction before a Magistrate in accordance with the provisions of the Magistrate’s Code of Procedure Act;
- “Supreme Court” means the Supreme Court of the Windward Islands and Leeward Islands in the State;
- “territorial sea” means the territorial sea of Saint Christopher and Nevis as defined in section 2 of the Maritime Areas Act,

[Inserted by Act 3/1984]

Revision Date: 31 Dec 2009

“the State” means the State of Saint Christopher and Nevis;

“United Kingdom” means Great Britain and Northern Ireland;

“vessel” includes any ship, boat, lighter, or other floating craft, used for transport by water;

“will” includes codicil.

“writ of summons”, “writ of summons indorsed with statement of claim” or “specially endorsed writ” includes “claim form” as defined in the Eastern Caribbean Supreme Court Civil Procedure Rules, 2000.

[Inserted by Act 21/2000]

“writing” with its grammatical variations and cognate expressions, includes printing, lithography, typewriting, photography and other modes of representing or reproducing words or figures in visible form;

“year” means a year reckoned according to the British calendar.

[Amended by Acts 3/1984 and 21/2000]

(2) Any reference in any law containing a reference to the Commonwealth dominions or to any parts thereof, which would have extended so as in any way to include the Republic of India, shall have the same operation in relation to India, and to persons and things in any way belonging to or connected with India, as it would have had if India had not become a Republic.

(3) The provisions of subsection (2) shall be deemed to be varied, modified or repealed by any Act of Parliament or Order in Council of Her Majesty purporting to vary, modify, or repeal the India (Consequential Provision) Act, 1949.

(4) Whenever in any Act passed by the General Legislature of the Leeward Islands or in any Act having effect in the State on the first day of July, 1956, or in any Act passed thereafter the expression “Governor-General” appears, that expression shall be deemed to include the officer for the time being administering the Government of the State.

(5) Wherever in any Act the expression “British Empire” occurs there shall be substituted therefor the expression “Commonwealth”.

3. General interpretation of gender and number.

In this Act, and in every other Act whether passed or made before or after the commencement of this Act, unless there is something in the subject or context inconsistent with such construction, or unless it is therein otherwise expressly provided,

- (a) words importing the masculine gender include females; and
- (b) words in the singular include the plural, and the words in the plural include the singular.

4. Reference to public officers by title of office.

A reference in any law to any public officer by the usual title of his or her office shall, if there be such an office customarily in the State and unless the contrary intention appears, be read and construed as referring to the person for the time being holding or carrying out the duties of that office in the State.

5. References to Crown.

In any law references to the Sovereign reigning at the time of the passing or making of the law or the Crown shall, unless the contrary intention appears, be construed as references to the Sovereign for the time being.

6. Computation of time.

In computing time for the purposes of any law, unless the contrary intention appears,

- (a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day in which the event happens or the act or thing is done;
- (b) if the last day of the period is Sunday or a public holiday (which days are in this section referred to as excluded days) the period shall include the next following day, not being an excluded day;
- (c) when any act or proceeding is directed or allowed to be done or taken on a certain day, then if that day happens to be an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being an excluded day;
- (d) when an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of the time.

7. Provisions when no time prescribed.

Where no time is prescribed or allowed within which anything shall be done, such thing shall be done with all convenient speed, and as often as the prescribed occasion arises.

8. Measurement of distances.

In the measurement of any distance for the purposes of any law, that distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

9. References to the number of a line.

A reference in any Act to the number of a line of any section of any Act shall mean such line in the latest printed copy of such Act as contained in any printed collection of laws purporting to be printed and published by authority or by the Government Printer at the time of the passing of the Act containing such reference.

Revision Date: 31 Dec 2009

10. Definitions in law to apply subject to context.

(1) Where terms are defined in any law, such terms shall have the meanings assigned to them, unless there is anything in the subject or context repugnant to or inconsistent with such meaning.

(2) Where terms defined in any Act are used in any instrument (that is to say, any regulation, rule, by-law, proclamation, order in council, order, direction, notice or form) made or issued under such Act, such terms shall have the respective meanings assigned to them by the Act, unless they are otherwise defined in such instrument or are inconsistent with the subject or context.

COMMENCEMENT AND CITATION OF LAWS

11. Time when law comes into operation.

When any law or part of any law came or comes into operation on a particular day, it shall be deemed to have come or shall come into operation immediately on the expiration of the day next preceding such day.

12. Acts to be public Acts.

Every Act shall be a public Act and shall be judicially noticed as such unless the contrary is expressly provided by the Act.

13. Sections to be substantive enactments.

Every section of an Act shall have effect as a substantive enactment without any introductory words.

14. Citation of original or revised Acts.

When an Act is referred to, it shall be sufficient for all purposes to cite the Act either by the short title if any, by which it is made citable, or by the year of its passing and its number among the Acts of that year or in the case of the revised edition of the laws issued under any Act providing for the issue of a revised edition, by its short title or its chapter and number and the reference may in all cases be made according to the copies of Acts purporting to be printed by the Government Printer.

15. Citation of amended Acts.

Whenever the Principal Act on any subject is amended by any Act and the title or short title of the Principal Act admits of it, the Principal Act and every Act amending it may for all purposes be cited by the title or short title, as the case may be, of the Principal Act, substituting therein the word "Acts" for the word "Act" and omitting the year and number, or adding the years of the first and last Acts referred to; and whenever two or more Acts are cited in the manner authorised by this section, the authorised short title used shall be construed to mean all the Acts covered by that short title or either or any of them.

PROVISIONS AS TO REPEALS

16. Repeal of a repealing enactment.

Where any law repealing in whole or in part any former law is itself repealed, such last repeal shall not revive the law before repealed unless words be added reviving such law.

17. Repeal and substitution.

Where any law repeals wholly or partially any former law and substitutes provisions for the law repealed, the repealed law shall remain in force until the substituted provisions come into operation.

18. Effect of repeal.

(1) Where any law repeals and re-enacts, with or without modification, any provision of a former law, references in any other law to the provision so repealed shall, unless the contrary intention appears, be construed as references to the provision so re-enacted.

(2) Where any law repeals any other law, then, unless the contrary intention appears, the repeal shall not

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of any law so repealed or anything duly done or suffered under any law so repealed;
- (c) affect any right, privilege, or obligation or liability acquired, accrued, or incurred under any law so repealed;
- (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any law so repealed; or
- (e) affect any investigation, legal proceedings, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid, and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed, as if the repealing law had not been passed.

19. Effect of repeal on subsidiary legislation.

Whenever any Act shall hereafter be repealed and other provisions are substituted by the repealing Act all subsidiary legislation and appointments made under the repealed Act, and in force at the time of such repeal, shall, until annulled, continue good and valid in so far as they are not inconsistent with the substituted Act or provisions.

20. Construction of amending law with amended law.

Where one law amends another law the amending law shall, so far as it is consistent with the tenor thereof and unless the contrary intention appears, be construed as one with the amended law.

Revision Date: 31 Dec 2009

PROVISIONS AS TO SUBSIDIARY LEGISLATION

21. General provision with respect to power given to any authority to make subsidiary legislation etc.

Where any Act confers power on any authority to make or issue any instrument (that is to say, any regulation, rule, by-law, proclamation, order in council, order, form or notice) the following provisions shall, unless the contrary intention appears, have effect with reference to the making, issue and operation of such instrument:

- (a) any instrument as aforesaid may at any time be amended, varied, rescinded or revoked by the same authority and in the same manner by and in which it was made;
- (b) there may be annexed to the breach of any regulation, rule, by-law, order in council or order such penalty not exceeding three hundred dollars as the authority making the regulation, rule, by-law, order in council or order may think fit;

[Amended by Acts 7/1976 and 9/1986]

- (c) no regulation, rule, by-law, order in council or order shall be inconsistent with the provisions of any Act;
- (d) where any Act confers power on any authority to make any regulation, rule, by-law, order in council or order for any general purpose, and also for any special purposes incidental thereto, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose;
- (e) where any such instrument purports to be made or issued under any particular provision, then it shall be deemed also to be made under all other powers thereunto enabling; and
- (f) any reference in any regulation, rule, by-law, order in council or order to any enactment shall be read and construed as a reference to the enactment conferring the power to make or issue such regulation, rule, by-law, order in council or order.

[Amended by Act 6/1976]

22. Commencement of subsidiary legislation.

All subsidiary legislation made under any Act or lawful authority and having legislative effect shall be published in the *Gazette* and unless it is therein otherwise provided shall take effect and come into operation as law on the date of such publication and shall be judicially noticed.

23. Acts done under subsidiary legislation to be deemed done under law by which subsidiary legislation authorised.

An act shall be deemed to be done under any law or by virtue of the powers conferred by any law or in pursuance or execution of the powers of or under the authority of any law if it is done under or by virtue of or in pursuance of any regulation, rule, by-law, proclamation, order in council, order or notice made or issued under any power contained in such law.

PROVISIONS AS TO POWERS

24. Exercise of statutory powers between passing and commencement of Act.

Where any Act, which is not to come into operation immediately on the passing thereof, confers power to make any appointment, or to make, grant or issue any instrument (that is to say any regulation, rule, by-law, proclamation, order in council, order, warrant, scheme or letters patent) or to give notices, or to do any other thing for the purposes of the Act, such power may, unless the contrary intention appears, be exercised at any time after the passing of the Act so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof, subject to the restriction, that any appointment, instrument, notice or thing, made, granted, issued, given or done under such power shall not, unless the contrary intention appears in the Act, or the appointment, notice or thing is necessary for bringing the Act into operation, have any effect until the Act comes into operation.

25. Construction of provisions as to exercise of powers and duties.

(1) Where any Act confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2) Where any Act confers power or imposes a duty on the holder of an office, as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder for the time being of the office, or by a person appointed to act for him or her.

26. Power to appoint includes power to remove, etc.

Where any Act confers upon any person or authority power to make appointments to any office or place the power shall be construed as including the power to remove or suspend any person appointed, and to reappoint or reinstate him or her, and to appoint another person temporarily in the place of any person so removed or suspended or in place of any holder of the office or place who has died or is ill or absent, and to appoint another person temporarily to fill any vacancy in the office or place arising from any other cause:

Provided that where the power of the person or authority to make any such appointment is only exercisable upon the recommendation or subject to the approval, consent or concurrence of some other person or authority the power of removal shall, unless the contrary intention appears, only be exercisable upon the recommendation or subject to the approval, consent or concurrence of that other person or authority.

27. Power of Governor-General to provide for execution of duties of public officers during temporary absence or inability.

Where by or under any Act any powers are conferred or any duties are imposed upon a public officer, the Governor-General may direct that, if during any period owing to absence or inability to act from illness or any other cause such public officer shall be unable to exercise the powers or perform the duties of his or her office in any place under his or her jurisdiction or control, such powers shall be had and may be exercised and such duties shall be performed in such places by the person named by, or by the public officer

Revision Date: 31 Dec 2009

holding the office designated by, the Governor-General, and thereupon such person or public officer, during any period as aforesaid shall have and may exercise the powers and shall perform the duties aforesaid, subject to such conditions, exceptions and qualifications, as the Governor-General may direct.

[Amended by Act 6/1976]

28. Power to the Governor-General to appoint public officers as such to serve on boards, etc., and to appoint chairperson.

(1) Where by or under any Act power is given to the Governor-General to appoint any person to be member of any board, commission, committee or similar body it shall be lawful for the Governor-General, in the absence of any provision to the contrary, to so appoint, by his or her official designation, any public officer, and, on such appointment and until such appointment shall be cancelled or otherwise determined, the person for the time being filling the office in question shall be a member of such board, commission, committee or similar body.

(2) Where by or under any Act power is given to the Governor-General to appoint any board, commission, committee or similar body, it shall be lawful for the Governor-General, in the absence of any provision to the contrary, to appoint a chairperson of such board, commission, committee or similar body.

[Amended by Act 6/1976]

29. Appointment of officers by name or office.

Where by or under any Act the Governor-General or any other public officer or body is empowered to appoint or name a person to have and exercise any powers or perform any duties the Governor-General or such public officer or body may either appoint a person by name or direct the person for the time being holding the office designated by the Governor-General or by such public officer or body to have and exercise such powers and perform such duties; and thereupon or from the date specified by the Governor-General or by such public officer or body, the person appointed by name or the person for the time being holding the office aforesaid shall have and may exercise such powers and perform such duties accordingly.

[Amended by Act 6/1976]

30. Change in title of public office.

When the Governor-General considers it necessary to change the title of any public office, he or she shall cause a notice to that effect to be published in the *Gazette* setting out the former title and the substituted title or titles of such office, and declaring that such change of title shall take effect, or shall be deemed to have taken effect, from a date specified in such notice, and with effect from such date

- (a) where the change in title consists in the substitution of a single title for the former title, the substituted title shall replace the former title wherever the former title appears in any Act or in any deed or other instrument made or issued pursuant to or consequent upon any such Act; and
- (b) where the change in title consists in the substitution of two or more titles for the former title, the former title shall be replaced, in the

provisions of any such Act, deed or other instrument as may be specified in such notice, by such substituted titles as may be specified in such notice.

[Amended by Act 6/1976]

31. Powers of a board etc. not affected by vacancy, etc.

Where by or under any Act any board, commission, committee or similar body, whether corporate or unincorporate, is established, then, unless the contrary intention appears, the powers of such board, commission, committee or similar body shall not be affected by

- (a) any vacancy in the membership thereof;
- (b) the fact that it is afterwards discovered that there was some defect in the appointment or qualification of a person purporting to be a member thereof;
- (c) the fact that there was any minor irregularity in the convening of any meeting thereof.

32. Construction of enabling words.

Where in any law power is given to any person to do or enforce the doing of any act or thing all such powers shall be understood to be also given as are reasonably necessary to enable the person to do or enforce the doing of the act or thing.

33. Power of majority of more than two persons.

Save as is otherwise expressly provided by any law, whenever any act or thing is required to be done by more than two persons, a majority of them may do it.

34. Appointment of successor to office during leave of absence prior to retirement of substantive holder.

When a substantive holder of any office constituted by or under any Act is on leave of absence pending relinquishment of his or her office, it shall be lawful for another person to be appointed substantively to the same office.

35. Provisions as to offences under two or more laws.

Where an act or omission constitutes an offence, under two or more Acts, or both under an Act and under any other law which applies to the State, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of those Acts or under such other law, but shall not be liable to be punished twice for the same offence.

36. Attempt to commit an offence to be deemed an offence.

A provision which constitutes an offence shall, unless the contrary intention appears, be deemed to provide also that an attempt to commit such offence shall be an offence against such provision, punishable as if the offence itself had been committed.

Revision Date: 31 Dec 2009

PROVISIONS AS TO PENALTIES

37. Penalties prescribed to be maximum penalties.

(1) Whenever in any law a penalty is provided for an offence against that law, such provision shall, unless the contrary intention appears, be construed as fixing the maximum penalty for that offence, and the offender, on being found guilty, shall be liable to any penalty not exceeding the prescribed penalty; and it shall not be necessary in the law prescribing the penalty to use the expressions “not exceeding”, “a term not exceeding”, “on conviction thereof” or any similar expressions.

(2) Whenever in any law a penalty is set out in any section the same shall mean and be construed as meaning that any contravention of the section whether by act or omission shall be an offence against that law and shall, unless the contrary intention appears, be punishable by a penalty not exceeding the penalty stated.

[Amended by Act 6/1976]

(3) Where by any law a court is empowered to order imprisonment, either peremptorily or in default of payment of any pecuniary penalty, upon conviction for an offence, the court may, in the absence of express provision to the contrary in the same or any other law, order the offender to be imprisoned either with or without hard labour, and it shall not be necessary in the law prescribing the penalty to state that any such imprisonment may be with or without hard labour.

38. Disposal of forfeits.

(1) Where under any law any money or any animal or any thing is adjudged by any court or other authority to be forfeited, it shall, unless the contrary is otherwise provided or unless it is expressed by law to be forfeited to any person, be forfeited to the Crown, and the money or the net proceeds of the animal or thing, if it is ordered by competent authority to be sold, shall be paid into the Treasury of the State and shall form part of the public revenue of the State, unless other provision is made.

(2) Nothing in this section shall affect any provision in any law whereby any portion of any fine or forfeit or of proceeds of any forfeit is expressed to be recoverable by any person or may be granted by any authority to any person.

39. Imposition of penalty not to bar civil action.

The imposition of a penalty or fine by any law, in the absence of express provision to the contrary, shall not relieve any person from liability to answer for damages to a person injured.

MISCELLANEOUS

40. Imperial Acts to be read with necessary modifications.

Whenever any Imperial Act is extended to the State such Act shall be read with such formal alterations as to names, localities, courts, officers, persons, moneys, penalties and otherwise as may be necessary to make the same applicable to the circumstances.

41. Evidence of signature of Director of Public Prosecutions.

Whenever the fiat of the Director of Public Prosecutions is necessary before any prosecution or action is commenced, any document purporting to bear the fiat of the Director of Public Prosecutions shall be received as *prima facie* evidence in any proceeding without proof being given that the signature to such fiat is that of the Director of Public Prosecutions.

[Amended by Acts 12/1967 and 6/1976]

42. Reprint of amended laws.

When any law is amended it shall be lawful for the Government Printer to print copies of the law with all the necessary additions, omissions, substitutions and amendments affected by the amending law or laws and such copies shall be deemed to be authentic copies of the law so amended.

[Amended by Act 6/1976]

43. Rectification of errors.

(1) The Attorney General may, by Order published in the Gazette, rectify any grammatical or typographical mistakes appearing in any written law, and for that purpose may make any alteration, omission or addition of words, not affecting the meaning of such written law.

[Inserted by Act 25/2001 as section 42A, and now renumbered as section 43.]

[Note: Sections 43, 44, 45 and 46 have been renumbered accordingly]

(2) The Attorney General may, prior to the publication of any legislation, rectify any grammatical, typographical, or other mistakes and for that purpose may make any alteration, omission or addition of words, not affecting the meaning of such legislation.

[Inserted by Act 16/2007]

44. Forms.

Whenever forms are prescribed in any Act, slight deviations therefrom, not affecting the substance or calculated to mislead, shall not invalidate them.

45. Amendment or repeal in same session.

Any Act may be altered, amended, or repealed in the same session of the Legislature in which it passed.

46. Affirmative Resolutions.

(1) Where any Act provides that any statutory rules and orders made under that Act shall be subject to affirmative resolution of the National Assembly, the provisions of subsections (2) and (3) shall apply.

(2) Statutory rules and orders referred to in subsection (1) shall forthwith be published in the *Official Gazette* and laid before the National Assembly at the first or second sitting of the National Assembly after their publication.

Revision Date: 31 Dec 2009

(3) Statutory rules and orders referred to in subsection (1) shall not come into force unless approved by a Resolution of the National Assembly supported by the votes of not less than two-thirds of all the members of the National Assembly.

(4) Where statutory rules and orders are to be laid before the National Assembly in accordance with the provisions of this section, the Clerk of the National Assembly shall, prior to the sitting of the National Assembly, send a copy of the statutory rules and orders together with the Order Paper to members of the National Assembly.

47. Negative Resolutions.

(1) Where any Act provides that any statutory rules and orders made under that Act shall be subject to negative resolution of the National Assembly, the provisions of subsection (2), (3), and (4) shall apply.

(2) Statutory rules and orders referred to in subsection (1) shall forthwith be published in the *Official Gazette* and laid before the National Assembly at the first or second sitting of the National Assembly after their publication.

(3) Statutory rules and orders referred to in subsection (1) shall not come into force on the day they are laid in the National Assembly, but shall cease to have effect on annulment by a Resolution of the National Assembly supported by the votes of not less than two-thirds of all the members of the National Assembly.

(4) Where statutory rules and orders have been laid before the National Assembly, a notice of motion signed by two members thereof and made in accordance with the Standing Orders of the National Assembly within seven days of the day the statutory rules and orders were laid before the National assembly, praying that the statutory rules and ordered be revoked or amended, shall be debated in the National Assembly at the first convenient opportunity.

[Inserted by Act 35/2009]

48. Saving of rights of the Crown.

No law shall in any manner whatsoever affect the rights of the Crown, unless it is therein expressly stated, or unless it appears by necessary implication, that the Crown is bound thereby.

49. Law binding on Crown.

This Act shall be binding on the Crown.