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1980-81,No. 27

An Act to consolidate and amend enactments of the Legislative Assembly and other enactments in force in the Cook Islands relating to the High Court of the Cook Islands and the Court of Appeal of the Cook Islands and to certain rules and provisions of law in relation to judicial matters generally.

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title and commencement - (1) This Act may be cited as the Judicature Act 1980-81.

(2) This Act shall come into force on the date of the commencement of the Constitution Amendment (No.9) Act 1980-81.

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

"Action" means a civil proceeding commenced by plaint or in such manner as may be prescribed by rules of Court:

"Cause" means any action or other original proceedings between a plaintiff and a defendant and any criminal proceeding:

"Civil jurisdiction", in relation to the High Court, includes the jurisdiction of the Court in relation to land; and "civil proceedings" has a corresponding meaning:

"Constitution" means the Constitution of the Cook Islands:

"Court of Appeal" means the Court of Appeal of the Cook Islands established by the Constitution:

"Defendant" means every person served with any summons or process, or served with notice of or entitled to attend any proceedings (otherwise than as a plaintiff or as a witness):

"Enactment" has the same meaning as in the Constitution:

"High Court" or "Court" means the High Court of the Cook Islands established by the Constitution:

"Judge" means a Judge of the High Court:

"Judgment" includes any judgment, decision, decree, order, writ, declaration, conviction, sentence, or other determination, whether in an action or other judicial proceeding, whether civil or criminal:

"Justice" means a Justice of the Peace for the Cook Islands appointed under the provisions of the Constitution:

"Matter" includes every proceeding in the Court not being a cause:

"Party" includes every person served with a notice of or attending any proceeding, although not named on the record:

"Plaintiff" means every person applying to the Court for any relief within the civil jurisdiction of the Court (otherwise than by way of counterclaim as a defendant) against any other person by any form of proceeding, whether the same is taken by action, petition, application, summons, or otherwise.

"Process" includes every manner of summons, application, petition, writ, warrant, notice, order, affidavit, or other document filed, used, or required for the purpose of any proceedings.

[Amended Act 1991/7]

PART I

THE HIGH COURT OF THE COOK ISLANDS

3. Interpretation of provisions of the Constitution - Without limiting the power to make such an application conferred on any person by any other enactment, the High Commissioner, acting on the advice of the Prime Minister, may refer to the High Court for its opinion any question as to the interpretation or effect of any provision of the Constitution which has arisen or appears likely to arise, and the Court shall pronounce its opinion on any question so referred to it.

4. Registrar of the High Court - (1) There shall be appointed from time to time under the Public Service Act 1975 a Registrar of the High Court.
(2) The Registrar shall keep or cause to be kept the records of the Court, and shall perform such administrative duties in relation to the Court as the Chief Justice may from time to time direct.
(3) The person holding office as the Registrar of the High Court shall also be deemed to have been appointed the Sheriff of the Court.

5. Deputy Registrars - (1) There shall be appointed from time to time under the Public Service Act 1975 such Deputy Registrars of the High Court as may be necessary.
(2) A Deputy Registrar appointed under this section shall, subject to the control of the Registrar, possess, exercise, and perform the same powers, functions, and duties as the Registrar; and every reference in this Act to the Registrar of the High Court shall, so far as applicable, extend and apply to a Deputy Registrar.

6. Court administrative officers - There shall be appointed from time to time under the Public Service Act 1975 such interpreters, bailiffs, clerks, and administrative officers as may be necessary, who shall perform such duties in relation to the administration of the Court as may be assigned to them by the Registrar.

7. Seal of the Court - The High Court shall have in the custody of each Judge, the Registrar, and each Deputy Registrar a seal of the Court in such form as the Minister of Justice approves for the sealing of all orders, warrants, records, and all other instruments that require to be sealed by the Court.

8. Practice and procedure - Subject to the provisions of this Act, the Code of Civil Procedure Act 1972, the Criminal Procedure Act 1980-81, and of any other enactment, the practice and procedure of the High Court in the exercise of its civil and criminal jurisdiction shall be such as the Court thinks in each case to be the most consistent with natural justice and convenience.

8A. Rules and Regulations as to Service - (1) The Queen's Representative may from time to time by Order in Executive Council made with the recommendation of at least two members of the Rules Committee prescribe rules for the purpose of facilitating the expeditious, inexpensive, and just service of Process out of the Cook Islands.
(2) Without affecting the generality of subsection (1) of this section, rules made pursuant to that subsection may provide:

(a) As to the circumstances if any in which service may be effected without leave of the Court and the terms of such service;
(b) As to the circumstances if any in which service shall be effected by leave of the Court;
(c) For time limits which are to have application in particular circumstances;
(d) For service of Process by direction of the Court where personal service cannot be effected for any sufficient reason;
(e) For any party serving or served with a Process to file an address for service on the same island as that from which the Process was issued.

(3) Nothing in this Act or any rules made pursuant to this section shall affect the right of the person served to apply to the Court to exercise its discretion to stay any proceedings on the ground of forum non conveniens or any other ground.
[Added Act 1991/7]

8B. Past and Future Service - (1) Where prior to the coming into force of this section any Process has been served out of the Cook Islands, whether by leave or not, and a final determination has been made thereon by the Court, such service shall be deemed to have been valid and effective.
(2) In any case to which the rules referred to in section 8A(1) do not apply (or if such rules shall not have been made) the High Court may grant leave for service to be effected out of the Cook Islands on such terms and conditions as it may direct.
(3) Where before this Act comes into force -

(a) Any Process has been served out of the Cook Islands and
(b) The Court has not made a final determination in respect of those proceedings

then such service shall not be valid or effective, unless on the application of a party to the proceedings the Court orders otherwise as shall be just and equitable in the circumstances and upon such terms and conditions as the Court may think fit.
[Added Act 1991/7]

9. Injunction, certiorari, mandamus, and prohibition - The High Court may exercise by way of order in the ordinary course of its civil procedure jurisdiction in respect of injunction, certiorari, mandamus, and prohibition, including the power to award damages in lieu of injunction.

10. Custody of minor - (1) The High Court may, on the application of any person, from time to time make such order as it thinks fit with respect to the custody of any minor (being unmarried) by any parent or guardian of that minor.
(2) Where the Court is satisfied that the minor has no parent or guardian fit to have such custody, the Court may make such order as it thinks fit for the custody of the minor by any other person.
(3) The jurisdiction conferred by this section shall in all cases be exercised in such manner as the Court deems most conducive to the welfare of the minor.
(4) "Parent" in this section includes an adoptive parent and the father or mother of a minor who is illegitimate.

11. Habeas corpus - The High Court may, on the application of any person, make an order for the release of any person from unlawful imprisonment or detention, or for the production before the Court of any person alleged to be unlawfully imprisoned or detained, and every person who disobeys any such order shall be guilty of contempt of the High Court.

12. Criminal procedure - Every reference in any enactment in force in the Cook Islands to the trial of offences by way of indictment or by way of summary proceedings shall, in the application of that enactment to the Cook Islands, be construed as a reference to the trial of such offences by the High Court in the ordinary course of its criminal jurisdiction and procedure.

13. Constitution of Court in criminal trials - Subject to sections 19 to 22 of this Act, every criminal trial in the High Court shall take place before one Judge of that Court sitting with or without a jury in accordance with the provisions of this Act and the Juries Act 1968.

14. Trial with Judge and jury - Notwithstanding any other provision in any law, the trial of any person for any offence specified in the First Schedule to this Act shall take place in Rarotonga, and shall be by a Judge sitting with a jury.

15. Trial without jury - On the trial of any person for any offence punishable only by fine or by imprisonment for a term not exceeding 6 months or by both, the trial shall be before a Judge or a Justice or Justices, as the case may be, without a jury.
15A Election for Specified Offences - (1) Notwithstanding this or any other enactment, on the trial of any defendant, where sections 14 and 15 of this Act do not apply, the defendant shall have the right to have a trial before 3 Justices sitting together, or before a Judge alone where the matter to be tried is under

(a) Part X of the Crimes Act 1969 and the information as worded refers to a monetary value not exceeding $5000, and the offence if punishable by a sentence of ten years or less,

(b) section 250 of the Crimes Act 1969,
(c) Conspiracies and attempts to commit an offence, or accessories after the fact to an offence, where that offence qualifies under paragraphs (a) or (b),
(d) the Public Moneys and Stores Act 1987,
(e) the Income Tax Act 1972,
(f) the Turnover Tax Act 1980,
(g) the Customs Act 1913 (N.Z.), or
(h) the Import Levy Act 1972.

(2) On the trial of any offence to which this section applies, the Court shall, before the charge is gone into, inform the defendant of the right conferred on him by subsection (1) of this section, by addressing him to the following effect:

"You are charged with an offence for which you are entitled, if you desire it, to be tried by 3 Justices sitting together, or by a Judge alone. Do you desire to be tried by 3 Justices sitting together, or by a Judge alone?"

(3) Where a defendant elects to be tried by a Judge alone pursuant to this section, or does not elect when requested by the Court to do so, he shall be remanded, with or without bail, to appear before a Court to be presided over by a Judge without a jury, and the provisions of Part I of the Criminal Procedure Act 1980-81 relating to preliminary proceedings shall apply accordingly.

(4) A defendant who has elected under this section to be tried by a Judge alone may, by leave of the Court, at any time before the charge is gone into but not afterwards, withdraw his election, and thereupon the case shall be dealt with by 3 Justices sitting together.

(5) An election under this section, if the defendant is personally present, may be made on his behalf by any barrister or solicitor who appears for him.

[Added Act 1991/7; Amended Act 1991/28]

16. Right to elect in certain cases -

(1) On the trial of any defendant for any offence punishable by imprisonment for a term exceeding 6 months, not being an offence to which sections 14 or 15A of this Act apply, the person charged may before the charge is gone into but not afterwards, elect whether the Judge shall sit with or without a jury. Before the defendant is called upon to make his election under this section, the substance of the charge shall be read to him.

(2) Except in the case to which section 15 of this Act applies, the Court shall before the charge is gone into in respect of any offence to which this section applies, inform the defendant of the right conferred on him by subsection (1) of this section, by addressing him to the following effect:

"You are charged with an offence for which you are entitled, if you desire it, to be tried by a jury instead of being dealt with by the Judge alone. Do you desire to be tried by a jury or by the Judge?"

(3) Where a defendant has made his election pursuant to this section, he shall be remanded, with or without bail, to appear before a Court to be presided over by a Judge sitting with or without a jury, as the case may be, and the provisions of Part I of the Criminal Procedure Act 1980-81 relating to preliminary proceedings shall apply accordingly. Where a defendant does not elect when requested by the Court to do so pursuant to this section, he shall be deemed to have elected to be tried by a Judge and a jury.

(4) A defendant who has elected under this section to be tried by a jury, may, by leave of the Court at any time before the charge is gone into but not afterwards, withdraw his election, and thereupon the Court shall deal with the case as if no such election had been made.
(5) Where a defendant who has elected under this section to be tried by a jury, he may, at any time after such election, notify the Court that he pleads guilty to the offence charged, and the Court, unless it considers leave should not be granted to the defendant to withdraw his election, shall accept that plea and deal with the case as if no such election has been made.
(6) An election under this section, if the defendant is personally present, may be made on his behalf by any barrister or solicitor who appears for him.
[Amended Act 1991/7]

17. Where some only of defendants to be tried jointly elect trial by Judge with jury - Where 2 or more defendants are to be tried together and, pursuant to section 16 of this Act, one or more, but not all, of those defendants elect to be tried by a Judge sitting with a jury, then, notwithstanding anything in section 16 of this Act and any election by any of the defendants made under that section, all the defendants shall be tried by a Judge sitting with a jury.

18. Special jurisdiction of Land Division - Subject to the provisions of the Constitution and to the provisions of this Act, the Land Division of the High Court shall exercise the jurisdiction conferred on the Court by Part XI of the Cook Islands Act 1915 as if every reference to the High Court in that Part (as amended by section 19(4) of the Constitution Amendment (No. 9) Act 1980-81) were a reference to the Court exercising the jurisdiction of the Land Division of the Court.

Jurisdiction of Justices of the Peace

19. Jurisdiction of High Court presided over by a Justice - The High Court presided over by one Justice may exercise jurisdiction to hear, determine, and, in the case of a criminal offence, pronounce sentence -

(a) In criminal proceedings, -

(i) In respect of any offence punishable by fine only:
(ii) In respect of any other offence specified in Part I of the Second Schedule to this Act:
(iii) In respect of any offence other than those hereinbefore specified for the purpose only of receiving from a defendant a plea thereto:
(iv) In any case where the enactment creating the offence expressly provides that jurisdiction may be exercised by the Court presided over by a Justice:

(b) In civil proceedings, -

(i) In actions for the recovery of any debt or damages not exceeding $1,500:
(ii) In actions for the recovery of chattels not exceeding in value $1,500:

(iii) Where by any other enactment civil jurisdiction is expressly given to a Justice:

(c) In proceedings under the Transport Act 1966 in respect of offences punishable by fine only or by a term of imprisonment not exceeding 3 months:

(d) In proceedings under Part XX of the Cook Islands Act 1915 (relating to maintenance and affiliation):

(e) In proceedings under section 409 (e) of the Cook Islands Act 1915, to grant an interim injunction pending disposal of the proceedings by the Court:

(f) In proceedings under section 448 of the Cook Islands Act 1915, to make succession orders that are unopposed:

(g) To give a direction under section 43 of the Land (Facilitation of Dealings) Act 1970 as to a meeting of assembled owners:

(h) Any application for an order under section 141 of the Cook Islands Act 1915 (relating to judgment summonses):

(i) In proceedings under section 589 of the Cook Islands Act 1915 relating to the custody of persons of unsound mind arrested under that section.

[Amended Act 1986/12; Act 1986/15]

20. Jurisdiction of Court presided over by three Justices - The High Court presided over by 3 Justices sitting together may exercise jurisdiction to hear, determine and, in the case of criminal proceedings, pronounce sentence, -

(a) In criminal proceedings, -

(i) In respect of any offence specified in Part II of the Second Schedule to this Act:

(ii) In any case where the enactment creating the offence provides that jurisdiction may be exercised by the Court presided over by three Justices:

(iii) in any case where the trial is to be heard by 3 Justices as a result of an election or a withdrawal of an election made pursuant to section 15A of this Act.

(b) In civil proceedings -

(i) In actions for the recovery of any debt or damages exceeding $1,500 but not exceeding $3,000:

(ii) In actions for the recovery of chattels exceeding in value $1,500 but not exceeding in value $3,000.

(c) In proceeding under Part VIII of the Cook Islands Act 1915 relating to extradition:

(d) In proceedings under the Fugitive Offenders Act 1969, to hear a case and commit a fugitive to prison to

await his return in the manner prescribed in that Act:

(e) In any case where by any other enactment civil jurisdiction is expressly given to three Justices sitting together.

[Amended Act 1986/12; Act 1986/15; Act 1991/7]

21. Maximum Penalty on Conviction by Justice or Justices - (1) Where any person is convicted of any offence by a Justice sitting alone, the Court may sentence him to imprisonment for a term not exceeding 2 years or to a fine not exceeding $500 or to both, or to the penalty provided by any enactment, whichever is the less, or, in the event that the enactment provides for a minimum penalty, to that penalty.

(2) Where any person is convicted of any offence by 3 Justices sitting together, the Court may sentence him to imprisonment for a term not exceeding 3 years or to a fine not exceeding $1000 or to both, or to the penalty provided by any enactment, whichever is the less, or, in the event that the enactment provides for a minimum penalty, to that penalty, or in the event that the trial was held following an election made pursuant to section 15A of this Act, to the penalty provided for in the enactment.

[Amended Act 1991/7; Act 1991/28]

22. Procedure where plea only is taken by Justice - (1) Where pursuant to section 19 (a) (iii) of this Act a plea has been received from a defendant by the Court presided over by a Justice, the Justice shall, -

(a) Where the plea is one of guilty, remand the defendant, with or without bail, to appear before a Judge at the High Court at Rarotonga for the purpose of the entering of any conviction or the imposition of any sentence or both, as the Judge deems fit:

(b) Where the plea is one of not guilty, take from the defendant, if it is so required, an election under section 16 of this Act, and thereupon remand the defendant, with or without bail, to appear before the High Court at Rarotonga for trial by a Judge alone or a Judge sitting with a jury, as the case may be.

(2) If a remand pursuant to paragraph (a) or paragraph (b) of subsection (1) of this section involves a transfer of proceedings to the Court at Rarotonga from a Court outside that Island, the provisions of section 37 of the Criminal Procedure 1980-81 Act (relating to changing the place of hearing) shall apply.

23. Precedence of Justices - Justices shall take seniority according to the respective dates of their first appointment as Justices. The senior Justice shall preside at any hearing of the Court where there are more than one Justice present, or, if the Justices so present are of the same seniority, a Justice designated by the Registrar shall preside.

24. Justices may decline jurisdiction - (1) Where proceedings by way of information are before 3 Justices pursuant to section 15A of this Act, or have been commenced before a Justice under section 19 (a) (ii) of this Act, or before Justices under section 20 (a) (i) of this Act, the Justice or Justices, as the case may be, at any time before the defendant has been sentenced or otherwise dealt with, may decline to deal further with the information and require that it shall be dealt with by a Judge, and a certificate to that effect stating the reasons for the decision shall be endorsed on the information.

(2) Where a Court declines jurisdiction under this section, then -

(a) If the defendant has been convicted or has

pleaded guilty to the offence charged in the information, the Justice or Justices as the case may be, shall remand him for conviction or sentence or both by a Judge, and for that purpose, if it is expedient so to do, may make an order under the provisions of section 37 of the Criminal Procedure Act 1980-81 changing the place of hearing. The Justice or Justices shall cause the information, a statement of the facts of the case, and the bail bond (if any) to be presented to a Judge as soon as practicable:

(b) In all other cases the Judge shall deal with the information in all respects as a rehearing.

[Amended Act 1991/7]

25. Attendance of Justices at Court - (1) The Registrar shall keep, and correct from time to time as occasion may require, a list of Justices.

(2) Where the attendance of Justices is required at any sitting of the Court, the Registrar shall summon as many Justices as he thinks necessary to attend.

26. Legality of acts done by person ceased to be a Justice - The legality of anything done by any person while he is a Justice shall not be affected by his ceasing to be a Justice, but anything done by any person after he has ceased to be a Justice in purported exercise of any of the powers or duties of a Justice shall be void.

27. No action against a Justice unless act in excess of jurisdiction or without jurisdiction - (1) No action shall be brought against any Justice for any act done by him, unless he has exceeded his jurisdiction or has acted without jurisdiction.

(2) When a conviction or order is entered by any one or more Justices and a warrant of distress or of commitment or a warrant to collect any sum of money adjudged to be paid is granted thereon bona fide by some other Justice or a Judge, no action shall be brought against the Justice or Judge who granted the warrant by reason of any defect in the conviction or order or any want of jurisidction in the Justice who entered or made it.

28. Onus of proof - In any action brought against a Justice by a person claiming to have been injured by an act done by the Justice in excess of jurisdiction or without jurisdiction, the onus of proving the excess or want of jurisdiction shall be upon the person alleging it.

29. Indemnity of Justice - (1) Any Justice against whom a judgment has been entered to pay damages or costs to any person injured as a result of any act done by the Justice in excess of jurisdiction or without jurisdiction shall, on the production by him of a certificate signed by a Judge stating that in his opinion the Justice acted in good faith under the belief that he had in fact jurisdiction, and further that in the opinion of the Judge in all the circumstances he ought fairly and reasonably be excused, be indemnified by the Crown to the full amount of the judgment.

(2) Where a claim against a Justice is settled by the payment by him of, or an agreement by him to pay, an agreed amount for damages or costs before action is commenced against him or before or during the trial of the action, he shall be indemnified by the Crown to the full amount paid or agreed to be paid by him, on production of a certificate as aforesaid stating also that in the opinion of the Judge the amount paid or agreed to be paid was fair and reasonable:

Provided that, if he is not so satisfied, the Judge may

issue the certificate in respect of such less sum as in his opinion would have been or would be adequate to settle the plaintiff's claim, and in that case the Justice shall be indemnified by the Crown to the amount stated in the certificate.
(3) Application for such a certificate may be made by the Justice at any time to a Judge in Chambers, and the Judge shall have power to grant the certificate after considering such evidence as may be given before him either orally or in the form of affidavits.
(4) A copy of the application shall be served by the Justice on the Attorney-General, who shall be entitled to appear and oppose it.

Evidence

30. Affidavits in the Cook Islands - (1) Affidavits in the High Court may be sworn in the Cook Islands before -

(a) Any barrister or solicitor entitled to appear before the High Court:

(b) The Registrar or a Deputy Registrar of the High Court:

(c) A Postmaster:

(d) The High Commissioner of the Cook Islands:

(e) A Justice:

(f) The Chief Administration Officer in any island of the Cook Islands other than Rarotonga.

(2) The making of such affidavits shall be governed by the same rules as are in force for the time being with respect to affidavits in the High Court of New Zealand.

31. Evidence by affidavit - In any civil proceedings in the High Court evidence may be taken either orally or by affidavit, but in actions and other proceedings inter partes such affidavits shall not be admissible without the leave of the Court.

32. Commissioners to take affidavits, etc., out of the Cook Islands - (1) Any Judge, by a commission to be issued under the seal of the Court, may from time to time appoint any person to be and act as a Commissioner of the Court in any country or place beyond the jurisdiction of the Court for the purpose of administering and taking any oath, affidavit, or affirmation, whether in any action, cause, proceeding, matter, or thing commenced or pending in the Court, or in any proceeding, matter, or thing whatsoever within the cognisance or jurisdiction of the Court.
(2) Every such appointment shall be published in the Cook Islands Gazette.

33. Affidavits, etc., so taken to be of like effect as if taken in the Cook Islands - Every oath, affidavit, or affirmation taken or made before any such Commissioner as aforesaid shall within the Cook Islands be of the like effect in all respects as if the same had been administered, made, or taken by or before the Court or before a person having authority to administer or take the same in the Cook Islands.

34. Commission may be revoked - (1) Any commission issued as aforesaid may be revoked by any Judge for any cause which such Judge deems sufficient; but no such revocation shall affect or prejudice any act, matter, or thing done by any Commissioner by virtue of his commission prior to a notification of such revocation having been given or sent to him.
(2) Every revocation of any such appointment shall be published in the Cook Islands Gazette, and the notice published in that Gazette shall state the date when notice of revocation was given or sent to the Commissioner affected thereby.

35. Commissioner to take evidence - (1) The High Court may, in any civil or criminal proceeding where it appears necessary for the purposes of justice, make an order for the examination on oath before any Judge or other officer of the Court or any other person or persons, and at any place either in or out of the Cook Islands, of any witness or person and may order any deposition so taken to be filed in the Court, and may empower any party to the proceeding to give the deposition in evidence therein.
(2) Where any such deposition is to be taken in New Zealand, an application for the taking thereof may be made under the provisions of section 48A of the Evidence Act 1908 of the Parliament of New Zealand (as enacted by section 4 of the Evidence Amendment Act 1962), and thereupon sections 48 to 48E of that Act (as enacted by the said section 4) shall apply accordingly.

Contempt of Court

36. Contempt of Court defined - Every person is guilty of contempt of the Court who -

(a) Disobeys any judgment or order of the Court, or of any Judge thereof, or of any Justice, otherwise than by making default in the payment of a sum of money (other than a penalty) payable under such judgment or order; or

(b) Uses any abusive, insulting, offensive, or threatening words or behaviour in the presence or hearing of the Court; or

(c) Assaults, resists, or obstructs, or incites any other person to assault, resist, or obstruct, any constable or officer of the Court in serving any process of the Court, or executing any warrant of the Court or of any Judge or Justice, or executing any judgment or order of the Court or of any Judge or Justice; or

(d) By any words or behaviour obstructs in any manner the proper and orderly administration of justice in the Court; or

(e) Does any other thing which elsewhere in this Act or in any other Act is declared to be a contempt of the Court; or

(f) Aids, abets, counsels, procures, or incites any other person to commit contempt of the Court.

37. Punishment for contempt - Every person who commits contempt of the Court shall be liable to a fine not exceeding $100 or to imprisonment for any term not exceeding 6 months.

38. Jurisdiction of the Court - The offence of contempt of the Court shall be punishable by the Court either -

(a) In the ordinary course of the criminal jurisdiction of the Court; or

(b) In accordance with the provisions of sections 39 to 41 of this Act.

39. Contempt in the face of the Court - (1) If the contempt is committed in the presence or hearing of the Court, any Judge or Justice then and there sitting in Court may, without order or warrant, direct any constable, officer of the Court, or other person to arrest the person so guilty of contempt and to bring him before the Court.
(2) The Court may thereupon, after giving the person so arrested a reasonable opportunity of being heard in his defence, either order him to pay a fine not exceeding $100 or commit him to prison for any period not exceeding 6 months.

40. Discharge of persons in contempt - A person imprisoned for contempt, or for default in payment of a fine imposed upon him for contempt, may be at any time discharged; and any fine so imposed may be at any time remitted in whole or in part, either by order of the Court or by warrant under the hand of the High Commissioner.

41. General power to commit for contempt - Nothing in sections 36 to 40 of this Act shall limit or affect any power or authority to punish any person for contempt in any case to which those sections do not apply.

General Procedure in High Court

42. Right of audience in the High Court - In any proceeding in the High Court, whether civil or criminal, any party thereto may be represented either by a barrister or solicitor or with the leave of the Court, by any other agent, but any such leave may be at any time withdrawn.

43. Minutes of judgments - (1) Every judgment of the High Court shall be deemed to be complete when a minute thereof has been made in the record books of the Court and signed by a Judge, or, as the case may be, the Justice or Justices presiding.
(2) When necessary the judgment may at any time thereafter be drawn up under seal of the Court.

44. Amendments - A Judge may at any time amend any minute or judgment of the Court or other record of the Court in order to give effect to the true intent of the Court in respect thereof or truly to record the course of any proceeding.

Execution of Judgments

45. Writs of sale and possession - (1) Where by any judgment

of the High Court in its civil jurisdiction any person is ordered to pay any sum of money, the party to whom the money is payable may cause a writ of sale to be issued.
(2) When by any judgment of the High Court any person is ordered to deliver possession of land or chattels, the party to whom such land or chattels are ordered to be delivered may cause a writ of possession to be issued.

46. Effect of writ of possession - A writ of possession shall authorise the officer to whom it is addressed to deliver to any party named in the writ possession of any land or of any chattels specified in the writ, and for that purpose to eject any other person from such land, or to seize and take possession of any such chattels.

47. Effect of writ of sale - (1) A writ of sale shall authorise the officer to whom it is directed to seize all the chattels (including money, cheques, bills of exchange, and other securities for money) of the person against whom it is issued, except wearing apparel, bedding, tools, and implements of trade, not exceeding in the aggregate $100 in value.
(2) All chattels so seized may, unless the judgment is sooner satisfied, together with the costs of the execution, be sold or otherwise converted into money by the Registrar of the High Court, and the proceeds of such sale or conversion shall, after payment thereout of the costs of the execution, be applied in satisfaction of the judgment.

48. Issue of writs of sale or possession - Every writ of sale or writ of possession shall be issued by the Registrar of the High Court under the seal of the Court, and shall be addressed to an officer of the Court or to a constable.

49. Charging orders - (1) Any judgment of the High Court in its civil jurisdiction for the payment of any sum of money may be enforced by a charging order made by the Court against any real or personal property of the person by whom the money is payable (including debts and other money due or accruing due to that person, but not including the interest of a Cook Islander in any Native land). Any such charging order shall be made and have effect in manner provided by rules of Court.
(2) In this section the term "Cook Islander" means a person belonging to the part of the Polynesian race indigenous to the Cook Islands; and includes any person descended from a Cook Islander.

50. Stay of execution - The High Court may in any civil proceedings stay the execution of any judgment for such term as the Court thinks fit.

PART II

APPEALS

Court of Appeal of the Cook Islands

51. Officers - The Registrar, Deputy Registrars, and other officers of the High Court shall, without further appointment, act in the like capacity in respect of the Court of Appeal.

52. Questions of law may be reserved for decision of the Court of Appeal - (1) The High Court may in any proceeding pending

before it, whether civil or criminal, either on the application of any party or of its own motion, state a case on any question of law for determination by the Court of Appeal.
(2) The determination by the Court of Appeal of any case so stated shall be binding on the High Court.
(3) Every case so stated shall be under the seal of the High Court and filed with the Registrar of the Court of Appeal.
(4) The Registrar of the Court of Appeal shall thereupon set down the case for hearing at some convenient sitting of the Court of Appeal.
(5) The determination of the Court of Appeal shall be embodied in an order, and a duplicate of that order under the seal of that Court shall be transmitted by the Registrar of that Court to the Registrar of the High Court.
(6) In and by such order the Court of Appeal may fix and award the costs of the argument and determination of the special case, and the High Court shall by judgment or order give effect to the order so made by the Court of Appeal.
(7) The Court of Appeal may send back for amendment any case so stated by the High Court.

53. Proceedings in the High Court may be removed into the Court of Appeal - (1) The High Court may order the removal into the Court of Appeal of any of the following proceedings, not being proceedings in which by any enactment the decision of the High Court is declared to be final:

(a) Any notice of motion:
(b) Any petition presented:
(c) Any special case stated:
(d) Any question of law ordered to be argued:
(e) Facts stated by a jury that have not found for either party.

(2) On such removal, the Court of Appeal shall have the same power to adjudicate on the proceedings as the High Court had.

54. Order granting leave to appeal - (1) No appeal to the Court of Appeal, whether as of right or not, shall be brought except in pursuance of an order of the High Court granting leave to appeal:
Provided that, subject to subsections (3) and (4) of this section, the High Court shall grant such leave in every case where the appellant is entitled to appeal as of right.
(2) Application to the High Court for leave to appeal shall be made at the time when judgment is given or within 21 days thereafter or, if, in the case of any appeal from a judgment of the High Court in the exercise of its criminal jurisdiction, the appellant is not sentenced on the date of conviction, at any time after the conviction but not later than 21 days after the date of sentence.
(3) Leave to appeal shall be granted only on condition that the appellant within a period to be fixed by the High Court, not exceeding 2 months from the date of the hearing of the application, gives security to the satisfaction of that Court or the Registrar thereof in a sum to be fixed by the Court for the payment of the costs of the appeal:
Provided that, in the case of any appeal from a judgment of the High Court in the exercise of its criminal jurisdiction, the Court may grant leave to appeal without requiring the appellant to give security for costs.
(4) Where the Court grants leave to appeal on condition that

the appellant gives security for costs, the order granting leave to appeal shall not be sealed until that security has been duly given.

55. Appeal to be by way of rehearing - All appeals to the Court of Appeal shall be by way of rehearing.

56. Powers of the Court of Appeal - (1) On any appeal from the High Court, the Court of Appeal may affirm, reverse, or vary the judgment appealed from, or may order a new trial, or may make such order with respect to the appeal as the Court thinks fit, and may award such costs as it thinks fit to or against any party to the appeal.
(2) Without limiting the general powers conferred by subsection (1) of this section, the Court of Appeal, in the case of an appeal against conviction for any offence (whether or not the appeal is against the sentence also), or in the case of an appeal against the sentence imposed for any offence (whether or not the appeal is against the conviction also), may exercise the powers conferred on the Court of Appeal by section 131 of the Criminal Procedure Act 1980-81.

57. Evidence on appeal - Every such appeal shall, so far as it relates to any question of fact, be determined by the Court of Appeal by reference to the evidence heard at the trial as certified under the seal of the High Court, and no further evidence shall, without the leave of the Court of Appeal, be heard or admitted.

58. Stay of execution - An appeal to the Court of Appeal shall not operate as a stay of execution, unless the High Court or the Court of Appeal otherwise orders or unless the appellant has been sentenced to death.

59. Release from custody - (1) When leave to appeal to the Court of Appeal from any conviction is granted by the High Court, the High Court may, if it thinks fit, release the appellant from custody on bail pending the determination of the appeal.
(2) Any person so released on bail may be at any time, and for any reason which the High Court thinks sufficient, arrested by warrant and committed to prison, there to undergo his sentence.
(3) Any period during which an appellant has been so at large on bail shall not be computed as part of any term of imprisonment to which he has been sentenced.
(4) The provisions of sections 83 to 95 of the Criminal Procedure Act 1980-81 (relating to bail) shall apply, with necessary modifications, to the granting of bail under this section as if the appellant were a defendant remanded in custody who had been granted bail.

60. Appeals not to be allowed for irregularities in procedure - No judgment of the High Court shall, on appeal to the Court of Appeal, be set aside on the ground of any error or irregularity in the proceedings of the High Court, or on the ground of any defect of form or substance in the judgment, unless the Court of Appeal is of the opinion that the proceedings of the High Court were not in conformity with natural justice or that a substantial miscarriage of justice has taken place.

61. Appeals not to be allowed for improper admission or rejection of evidence - No judgment of the High Court shall,

on appeal to the Court of Appeal, be set aside on the ground of the improper admission or rejection of evidence, unless the Court of Appeal is of opinion that a substantial miscarriage of justice has taken place.

62. Cross appeals - (1) It shall not be necessary for a respondent to give notice by way of cross appeal.
(2) If a respondent in a civil proceeding intends on the hearing of an appeal to contend that the decision of the High Court should be varied, he shall, not less than 7 days before the commencement of the sitting at which the appeal is to be heard, or within such time as may be allowed by the Court of Appeal, file with the Registrar and give to any parties who may be affected by such contention a notice of such intention.
(3) The omission to give such notice shall not diminish the powers conferred on the Court of Appeal by this Act, but may in the discretion of that Court be ground for an adjournment of the hearing of the appeal or for a special order as to costs.

63. Amendment of notice of appeal - Any notice of appeal may be amended at any time as the Court of Appeal thinks fit.

64. Service on additional parties or other persons - The Court of Appeal may direct that notice of appeal be served on any party to the proceeding appealed from who has not been served with such notice as a party affected by the appeal, or any person who is not a party, and in the meantime may adjourn or postpone the hearing of the appeal on such terms as may seem just, and may give such judgment and make such order as might have been given or made if the persons served with the notice had originally been parties.

65. Powers of amendment, etc. - The Court of Appeal shall have all the powers as to amendment and otherwise of the High Court.

66. Power to draw inferences of fact - The Court of Appeal shall have power to draw inferences of fact.

67. Power to give judgment or make order - The Court of Appeal shall have power to give any judgment and may make any order which ought to have been given or made, and to make such further or other order as the case may require.

68. Powers not restricted to terms of appeal - The powers of the Court of Appeal may be exercised notwithstanding that the notice of appeal may be that part only of the decision be reversed or varied, and may be exercised in favour of all or any of the respondents or parties although they may not have appealed from the decision or contended that it should be varied.

69. Interlocutory order not to restrict decision on appeal - No interlocutory order or rule from which there has been no appeal shall operate so as to prevent the Court of Appeal from giving such decision on the appeal as may seem just.

70. Saving - Nothing in sections 55 to 69 of this Act shall limit the Court of Appeal in the exercise of any power conferred by any other provision of this Act or by any other enactment.

71. Abandonment of appeal - An appellant may at any time abandon his appeal by giving notice to the Registrar of the Court of Appeal, and upon such notice being given the appeal shall be deemed to have been dismissed subject to the right of the respondent to apply for costs.

72. Non-prosecution of appeal - If the appellant does not with due diligence prosecute his appeal or observe any of the conditions imposed by section 54 (3) of this Act (relating to security for costs), the Court of Appeal may dismiss the appeal and any costs thereof and any security entered into by the appellant shall be dealt with in such manner as the Court of Appeal directs.

73. Costs - The Court of Appeal shall have power to make such order as to costs of appeal or any other proceedings in that Court as may seem just.

74. Enforcement of order - The determination of the Court of Appeal on an appeal from the High Court shall be transmitted to the Registrar of the High Court under the seal of the Court of Appeal, and judgment shall thereupon be entered in the High Court in conformity with that determination, or such other proceedings by way of a new trial or otherwise shall be taken in the High Court as are required by such determination.

75. Court Seal - The Court of Appeal shall have in the custody of the Registrar a seal of that Court, in such form as the Minister of Justice approves, for the sealing of all documents which require to be sealed.

Appeals from Justices of the Peace

76. General right of appeal to Judge - (1) Except as expressly provided in any enactment, where on the determination of any proceedings, civil or criminal, by a Justice sitting alone or by Justices sitting together any party thereto is not satisfied with the decision therein, he may appeal from that decision to a Judge.

(2) Notice of appeal shall be filed in the Court within 21 days after the decision is given, and copies of that notice shall be served on all other parties affected by the decision.

(3) In the case of a conviction, no appeal shall be brought against the conviction or the sentence or both until the person convicted has been sentenced or otherwise dealt with.

(4) Upon the filing of the notice of appeal, the Justice or Justices, as the case may be, shall, unless a Judge makes an order to the contrary, grant a stay of execution of any judgment appealed from, and if the appellant is in custody he may be released on bail pending the determination of the appeal.

(5) Any person so released on bail may at any time and for any reason a Judge thinks sufficient be arrested by warrant and committed to prison there to undergo his sentence, which shall be deemed to commence on the day of such committal.

(6) The Justice or the Justices, as the case may be, shall forthwith upon the filing of the notice of appeal cause to be forwarded to the Registrar all notes recorded at the hearing, including notes of evidence and in the case of a plea of guilty a summary of the facts stated by the informant, together with any judgment delivered and all documents and exhibits produced at the hearing.

77. Setting down appeal for hearing - When the Registrar receives the notice of appeal referred to in section 76 of this Act, he shall set the appeal down for hearing on the first practicable sitting day and shall notify the parties to the appeal of the time and place appointed for the hearing.

78. Procedure on appeal - (1) All appeals under section 76 of this Act shall be by way of rehearing.
(2) Where any question of fact is involved in any appeal, the evidence taken by the Justice or Justices, as the case may be, shall, unless the Judge otherwise directs, be brought before the Court as follows:

(a) As to any evidence given orally, by the production of a copy of any note made by the Justice or Justices or such other material as the Judge may deem expedient:

(b) As to any evidence taken by affidavit and as to any exhibits, by the production of the affidavits and any exhibits that have been forwarded to the Registrar and by the production by the parties to the appeal of such exhibits as are in their custody:

(c) As to any other evidence taken under any enactment dealing with the taking of evidence of a witness at a distance, or the taking of evidence of a person about to leave the Cook Islands, or any statement of a person who is seriously ill which has been admitted by the Justice or Justices, by the production of a copy of that evidence or statement:

Provided that the Judge may in his discretion rehear the whole or any part of the evidence, and shall rehear the evidence of any witness if he has reason to believe that any note made by the Justice or Justices is or may be incomplete in any material particular.
(3) The Judge shall have the same jurisdiction and authority as the Justice or Justices, including powers as to amendment, and shall have full discretionary power to receive further evidence, if that further evidence could not in the circumstances reasonably have been adduced at the hearing.

79. Security for costs - Before hearing any appeal from a determination of a Justice or Justices, a Judge may impose, except in the case of an appeal against conviction and sentence or sentence only, such conditions as he thinks fit as to security for costs of the appeal or for performance of the judgment thereon.

80. Powers of Judge on appeal from Justices - (1) On any appeal from a determination of a Justice or Justices, a Judge may affirm, reverse, or vary the judgment appealed from, or may order a new trial, or may make such order with respect to the appeal as he thinks fit, and may award such costs as he thinks fit to or against any party to the appeal.
(2) Without limiting the general powers conferred by subsection (1) of this section, the Judge -

(a) On any appeal against conviction, may quash the conviction for any offence and substitute a

conviction for any other offence which he thinks is justified upon his finding of the facts, and may pass such sentence in respect of the substituted offence as he thinks fit:

(b) On any appeal against sentence, if he thinks that a different sentence should have been passed, shall either quash the sentence passed and pass such other sentence warranted in law (whether more or less severe) in substitution therefor as he thinks ought to have been passed, or vary, within the limits warranted in law, the sentence or any part of it or any condition imposed in it, and in any other case he shall dismiss the appeal.

81. Execution of order on appeal - The judgment of the Judge on appeal from a Justice or Justices shall be entered in the records of the Court in conformity with that judgment, and such other proceedings by way of a new trial or otherwise shall be taken by the Court as are required to give effect to the judgment.

82. Abandonment of appeal - An appellant in an appeal from a Justice or Justices may at any time abandon his appeal by giving notice thereof to the Registrar, and upon such notice being given the appeal shall be deemed to have been dismissed, subject to the right of the respondent to apply for costs.

83. Non-prosecution of appeal - If the appellant in an appeal from a Justice or Justices does not with due diligence prosecute his appeal or observe any of the conditions imposed by a Judge pursuant to section 79 of this Act, a Judge may dismiss the appeal, and any costs thereof, and any security entered into by the appellant shall be dealt with in such manner as the Judge directs.

PART III

MISCELLANEOUS PROVISIONS

Securities

84. Consideration for guarantee need not be in writing - No contract whereby any person promises to answer to another person for the debt, default, or liability of a third person shall, if the contract or some memorandum or note thereof is in writing and is signed by the party to be charged therewith or some other person lawfully authorised by him, be deemed insufficient to support an action or other proceeding to charge the person by whom the promise was made, by reason only that the consideration for the promise does not appear in writing or by necessary inference from a written document.

85. Rights of surety in such case - (1) Every such person shall be entitled to stand in the place of the creditor, and to use all the remedies, and if need be, and upon a proper indemnity, to use the name of the creditor in any action or other proceeding in order to obtain from the principal debtor or any co-surety, co-contractor, or co-debtor, as the case may be, indemnification for the advances made and loss sustained by the person paying or satisfying such debt or performing such duty.

(2) Such payment, satisfaction, or performance made by such surety shall not be pleadable in bar of any such action or other proceeding by him.

86. Rights of co-sureties as between themselves - A co-surety, co-contractor, or co-debtor shall not be entitled to recover from any other co-surety, co-contractor, or co-debtor by the means aforesaid more than the just proportion to which, as between those parties themselves, such last-mentioned person is justly liable.

Proceedings under the Customs Act 1913

87. Recovery of penalty - (1) Every penalty imposed pursuant to the Customs Act 1913 and recoverable in the High Court may be recovered by action in the name and on behalf of Her Majesty as a debt due to the Crown.
(2) The High Court may give leave to serve out of the Cook Islands the summons in any action for the recovery of any such penalty or any duty under the Customs Act 1913.
(3) The judgment in an action for the recovery of any such penalty may be enforced by way of proceedings for contempt of the High Court, and the failure of the defendant to satisfy any such judgment shall constitute a contempt of Court accordingly.
(4) Any person imprisoned for such contempt shall be released from custody on satisfaction of the judgment.
(5) Proceedings for contempt shall not preclude any other method of execution that would otherwise be available.

88. Condemnation of goods seized - (1) Proceedings in the High Court under the Customs Act 1913 for the condemnation of goods seized as forfeited shall be instituted by way of motion by a Collector of Customs, notwithstanding anything in the Customs Act 1913.
(2) Notice of the proceedings shall be given to such persons and in such manner as the Court directs, and it shall be sufficient if public notice is given by advertisement or otherwise at or near the place of seizure.
(3) Any person claiming to be interested in the goods may appear to oppose the application, and shall thereby become a party to the proceedings.
(4) If any person appears to oppose the application, the Court shall hear and determine the matter and acquit or condemn the goods, but, if no person so appears, judgment of condemnation shall be given.
(5) In this section the term "goods" includes any boat, vehicle, or other thing forfeited under the Customs Act 1913.

Miscellaneous Provisions and Rules of Law

89. Power of Court to award interest on debts and damages - (1) In any proceedings in the High Court for the recovery of any debt or damages, the Court may, if it thinks fit, order that there shall be included in the sum for which judgment is given interest at such rate, not exceeding the prescribed 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 judgment:-

Provided that nothing in this subsection shall -

(a) Authorise the giving of interest upon interest; or

(b) Apply in relation to any debt upon which interest is payable as of right, whether by virtue of any agreement, enactment, or rule of law, or otherwise; or

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

(2) In any proceedings in the Court for the recovery of any debt upon which interest is payable as of right, and in respect of which the rate of interest is not agreed upon, prescribed, or ascertained under any agreement, enactment, or rule of law or otherwise, there shall be included in the sum for which judgment is given interest at such rate, not exceeding the prescribed rate, as the Court thinks fit for the period between the date as from which the interest became payable and the date of the judgment.
(3) In this section the term "the prescribed rate" means the rate of 8 percent per annum, or such other rate as may from time to time be prescribed for the purpose of this section by the High Commissioner by Order in Executive Council.

90. Action on lost instruments - In case of any action founded on any negotiable instrument, the Court may order that the loss of the instrument shall not be taken advantage of, provided an indemnity is given to the satisfaction of the Court or the Registrar thereof against the claims of any other person upon that negotiable instrument.

91. Questions of foreign law to be decided by Judge - Where for the purpose of disposing of any action or other matter which is being tried by a Judge sitting with a jury it is necessary to ascertain the law of any other country which is applicable to the facts of the case, any question as to the effect of the evidence given with respect to that law shall, instead of being submitted to the jury, be decided by the Judge alone.

92. Costs - Subject to this Act and to the provisions of the Crimes Act 1969, the High Court shall have power to make such order as it thinks just for the payment of the costs of any proceedings by or to any party thereto. Such costs shall be in the discretion of the Court, and may, if the Court thinks fit, be ordered to be charged upon or paid out of any fund or estate before the Court.

93. Security for costs - (1) In any civil proceedings and at any stage thereof, the High Court may require a plaintiff or applicant resident out of the jurisdiction of the High Court to deposit any sum of money as security for costs, and may stay the proceedings pending the making of such deposit.
(2) When any sum has been so deposited as security for costs, it shall be disposed of in such manner as the Court directs.

94. Restriction on institution of vexatious legal proceedings - (1) If, on an application made by the Attorney-General under this section, the High Court is satisfied that any person has persistently and without any reasonable ground instituted vexatious legal proceedings in the Court, and whether against

the same person or against different persons, the Court may, after hearing that person or giving him an opportunity of being heard, order that no civil proceeding or no civil proceeding against any particular person or persons shall without the leave of the High Court be instituted by him in the Court and that any civil proceeding instituted by him in the Court before the making of the order shall not be continued by him without such leave.
(2) Leave may be granted subject to such conditions (if any) as the Court thinks fit and shall not be granted unless the Court is satisfied that the proceeding is not an abuse of the process of the Court and that there is prima facie ground for the proceeding.
(3) No appeal shall lie from an order granting or refusing such leave.

95. Legal status of married women - (1) Save where otherwise provided by any other enactment, the legal capacity of a married woman, whether contractual, proprietary, testamentary, or of any other kind whatsoever, shall be the same as that of an unmarried woman.
(2) Except as expressly provided in any other enactment and save in respect of intestate succession, marriage shall not confer on either party thereto any rights to or in respect of the property of the other.
(3) The rule of the common law that for certain purposes a husband and wife are deemed to be one person only is for all purposes hereby abolished.
(4) A husband shall not be responsible, as such, for torts committed by his wife.
(5) Nothing in this section shall affect the validity or operation of a restraint on anticipation.

96. Joint liability - A judgment against one or more of several persons jointly or jointly and severally liable shall not operate as a bar or defence to an action or other proceeding against any of those persons against whom judgment has not been recovered, except to the extent to which the judgment has been satisfied, any rule of law notwithstanding.

97. Discharge of debt by acceptance of part in satisfaction - An acknowledgment in writing by a creditor, or by any person authorised by him in writing in that behalf, of the receipt of a part of his debt in satisfaction of the whole debt shall operate as a discharge of the debt, any rule of law notwithstanding.

98. Recovery of payments made under mistake of law - (1) Subject to this section, where relief in respect of any payment that has been made under mistake is sought in the High Court, whether in an action or other proceeding or by way of defence, set off, counter-claim, or otherwise, and that relief could be granted if the mistake was wholly one of fact, that relief shall not be denied by reason only that the mistake is one of law, whether or not it is any degree also one of fact.
(2) Nothing in this section shall enable relief to be given in respect of any payment made at a time when the law requires or allows, or is commonly understood to require or allow, the payment to be made or enforced, by reason only that the law is subsequently changed or shown not to have been as it was commonly understood to be at the time of the payment.

99. Payments under mistake of law or fact not always recoverable - Relief, whether under section 98 of this Act or

in equity or otherwise, in respect of any payment made under mistake, whether of law or of fact, shall be denied wholly or in part if the person from whom relief is sought received the payment in good faith and has so altered his position in reliance on the validity of the payment that in the opinion of the High Court, having regard to all possible implications in respect of other persons, it is inequitable to grant relief, or to grant relief in full, as the case may be.

100. In cases of conflict, rules of equity to prevail - In all matters in which there is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail.

101. Independent medical examination of person injured by accident - (1) Where any person injured or alleged to have been injured by an accident, through the wrongful act, neglect, or default of any other person, claims compensation or damages on account of the injury, a Judge may order that the claimant be examined by one or more duly qualified medical practitioners named in the order, and not being witnesses on either side, may make such order with respect to the costs of such examination as he thinks fit.

General Provisions

102. Regulations and rules of Court - (1) The High Commissioner may from time to time, by Order in Executive Council, make regulations for all or any of the following purposes:

(a) Prescribing the matters in respect of which fees are payable under this Act:

(b) Prescribing scales of fees for the purposes of this Act and for the purposes of any proceedings before the High Court or the Court of Appeal, whether under this Act or any other enactment.

(2) The High Commissioner may from time to time by Order in Executive Council made on the recommendation of at least two members of the Rules Committee prescribe rules for the purpose of facilitating the expeditious, inexpensive, and just despatch of the business of the High Court and of the Court of Appeal, or of otherwise assisting in the due administration of justice.

(3) The Rules Committee referred to in this Act shall consist of:

(a) The Chief Justice, who shall be the convenor and Chairman of the Committee:

(b) The Solicitor-General:

(c) A qualified member of the legal profession practising in the Cook Islands.

(4) The member of the Rules Committee referred to in paragraph (c) of subsection (3) of this section shall be appointed by the Chief Justice and shall hold office for a term of three years. He may be reappointed from time to time, and may at any time resign his office by writing addressed to the Chief Justice.
[Amended Act 1981/6; Act 1991/7]

103. Consequential amendments of Criminal Justice Act 1967 - The Criminal Justice Act 1967 is hereby amended -

(a) By omitting from section 26(2) the word "Commissioner" in both places where it occurs:

(b) By omitting from section 27(3) the words "Commissioner of the High Court any Commissioner", and substituting the words "Justice of the Peace for the Cook Islands, any such Justice".

104. Repeals and revocations - (1) The enactments specified in the Third Schedule to this Act are hereby repealed.
(2) The rules specified in the Fourth Schedule to this Act are hereby revoked.

SCHEDULES

FIRST SCHEDULE Section 14

OFFENCES TO BE TRIED BY A JUDGE WITH A JURY

Offences against the following sections of the Crimes Act 1969: Sections 75 to 87 (inclusive); sections 103 to 109 (inclusive); sections 111 to 117 (inclusive); sections 119, 126, 127, 128, 141, 142, and 155; sections 192 to 197 (inclusive); sections 202, 204, 208, 211, 219, 220, and 221.

SECOND SCHEDULE

PART I Section 19 (a) (ii)

OFFENCES WITHIN JURISDICTION OF A JUSTICE OF THE PEACE UNDER SECTION 19 (a)(ii) OF THE ACT

1. Offences against the following sections of the Crimes Act 1969: Sections 93 to 102 (inclusive); sections 137, 137A, 163 to 170 (inclusive); sections 201, 213, 214, 216, 218, 249(c), 249(d), 251, 255, 269(2)(b), 269(2)(c), 270, 277, 281(1)(b), 281(1)(c), 310, 311, 312, 330, 331, 332.

2. Any other offences against any provision of any enactment, ordinance, regulation or bylaw for which the maximum term of imprisonment does not exceed three years.

PART II

Section 20 (a) (i)

OFFENCES WITHIN THE JURISDICTION OF THREE JUSTICES OF THE PEACE SITTING TOGETHER UNDER SECTION 20(a)(i) OF THIS ACT

Offences against the following sections of the Crimes Act 1969: Sections 129 to 133 (inclusive); sections 134, 136, and 158; sections 160 to 162 (inclusive); sections 198, 228 229, 249(b)(iv), 249(b)(v), 249(b)(vi), 249(b)(viii), 250, 285, and 313

THIRD SCHEDULE

Section 104(1)

ENACTMENTS REPEALED

ENACTMENT	PROVISIONS REPEALED
The Cook Islands Act 1915	Sections 109 to 113 (inclusive); sections 115 to 140 (inclusive); sections 148 to 152 (inclusive); section 171; sections 290 to 293 (inclusive) (as substituted by section 2 of the Cook Islands Amendment Act (No. 3) 1970 (Cook Islands)); sections 617, 621, 642, 643, and 644

ENACTMENT	PROVISIONS REPEALED
The Cook Islands Amendment Act 1950 (N.Z.)	So much of the First Schedule as relates to section 139 of the Cook Islands Act 1915
The Cook Islands Amendment Act 1956 (N.Z.)	Sections 4, 5, and 6
The Cook Islands Amendment Act 1957 (N.Z.)	So much of the Second Schedule as relates to sections 109, 110, and 111 of the Cook Islands Act 1915
The Cook Islands Amendment Act 1962 (N.Z.)	Section 2
The Cook Islands Amendment Act 1963 (N.Z.)	Sections 3 and 8(2)(a)
The Cook Islands Amendment Act 1965 (N.Z.)	So much of the First Schedule as relates to sections 112, 118, 126, 131, 161, 171, and 400 of the Cook Islands Act 1915
The Cook Islands Amendment Act 1966 (N.Z.)	So much of the First Schedule as relates to sections 109, 152, and 314B of the Cook Islands Act 1915
The Cook Islands Amendment Act (No. 3) 1970 (Cook Islands)	Sections 2 and 3
The Code of Civil Procedure Act 1972	Rule 326
The Cook Islands Amendment Act 1977 (Cook Islands)	Sections 4 and 5

Section 104(2) FOURTH SCHEDULE

RULES REVOKED

TITLE	New Zealand Gazette Reference or Statutory Regulations Serial Number
The Rules of the High Court 1916 (Reprinted with Amendments Nos 1 to 3, S.R. 1962/204)	Gazette, 1916, p. 709
The Rules of the High Court 1916, Amendment No. 1	Gazette, 1917, p. 1034
The Rules of the High Court 1916, Amendment No. 2	Gazette, 1923, p. 521
The Rules of the High Court 1916, Amendment No. 3	S.R. 1962/72
The Cook Islands Land Court Rules 1916	Gazette, 1916, p. 3707
The Cook Islands Land Court Rules 1916, Amendment No. 1	S.R. 1942/86
The Cook Islands Land Appellate Court Rules 1947	S.R. 1947/163