



SUPPLEMENT No. 3
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 193 of 23rd DECEMBER, 1966.
SUBSIDIARY LEGISLATION

C O N T E N T S

The following SUBSIDIARY LEGISLATION is published in this Supplement which forms part of this Gazette:-

The Courts Ordinance and the Crown Proceedings Ordinance—	Not.
Civil Procedure (Crown Proceedings) Rules	65

No. 65

COURTS ORDINANCE AND THE CROWN
PROCEEDINGS ORDINANCE, 1966

(Ordinances 3 of 1960, 7 of 1961, 19 of 1962,
5 of 1963, 3 of 1965 and Ordinance 9 of 1966).

RULES OF COURT MADE UNDER SECTION 63 OF
THE COURTS ORDINANCE READ WITH SECTION 27
OF THE CROWN PROCEEDINGS ORDINANCE 1966.

In exercise of the powers conferred upon him by section 63 of the Courts Ordinance read with section 27 of the Crown Proceedings Ordinance 1966 and of all other powers enabling him in that behalf, the Administrator hereby makes the following Rules:—

1. These Rules may be cited as the Civil Procedure (Crown Proceedings) Rules 1966 and shall be read as one with the Civil Procedure Rules as amended from time to time (hereinafter referred to as “the principal Rules”).

2. Order 5 of the principal Rules is hereby amended by inserting immediately after Rule 3 thereof the following new rule to be numbered 3A:—

“3A.—(1) The provisions of this Order shall have effect subject to the provisions of section 12 of the Crown Proceedings Ordinance, 1966, which provides for the service of documents on the Crown for the purpose of or in connexion with civil proceedings by or against the Crown.

(2) Service of a document in accordance with the said section 12 shall be effected—

(a) by leaving the document within the office hours of the Administration at the office of the Legal Adviser, or of any agent whom he has nominated for the purpose, but in either case with a person belonging to the office where the document is left, or

(b) by posting it in a prepaid registered envelope addressed to the Legal Adviser or any such agent as aforesaid; and where service under this rule is made by post the time at which the document so posted would be delivered in the ordinary course of post shall be considered as the time of service thereof.

(3) All documents to be served on the Crown for the purpose of or in connexion with any civil proceedings shall be treated for the purpose of these Rules as documents in respect of which personal service is not requisite.

(4) In this Rule the expression "document" includes writs, notices, pleadings (including affidavits), agreements for arbitration, orders (including judgements and arbitration awards), summonses, warrants and other documents, proceedings and written communications."

3. Order 6 of the principal Rules is hereby amended by inserting immediately after Rule 9 thereof the following new Rule to be numbered 10:—

"10. This Order shall apply in the case of civil proceedings by the Crown but shall not apply in the case of civil proceedings against the Crown."

4. Order 9 of the principal Rules is hereby amended by inserting immediately after Rule 11 thereof the following new Rule to be numbered 11A:—

"11A. In respect of civil proceedings by or against the Crown, the provisions of this Order shall have effect subject to the provisions of section 11 of the Crown Proceedings Ordinance, 1966, which relate to parties to such proceedings."

5. Order 10 of the principal Rules is hereby amended by inserting immediately after Rules 1, 5 and 6 respectively the following Rules to be numbered 1A, 5A and 6A respectively:—

"1A. Notwithstanding anything in Rule 1 of this Order, leave to issue a third party notice for service on the Crown shall not be granted unless the Court is satisfied that the Crown is in possession of all such information as it reasonably requires as to the circumstances in which it is alleged that the liability of the Crown has arisen and as to the departments and officers of the Crown concerned."

"5A. In the case of third party proceedings against the Crown the provisions of Rule 5 of this Order shall not apply unless the Court so orders and any application for such an order shall be made by summons supported by affidavit served not less than seven days before the return day."

"6A. A defendant shall not in any event be entitled to enter judgement against the Crown under Rule 6 of this Order without the leave of the Court. Any application for leave to enter judgement against the Crown under this Rule shall be made by summons supported by affidavit served not less than seven days before the return day."

6. Order 18 of the principal Rules is hereby amended by inserting immediately after Rule 2 thereof the following new rule to be numbered 2A:—

"2A. Where an application is made by the Crown under Rules 1 and 2 of this Order, the cause of action shall be deemed to be sufficiently verified if an affidavit is made by the Legal Adviser stating that to the best of his knowledge

and belief the plaintiff is entitled to the relief claimed and there is no defence to the action.

No application shall be made under Rules 2 and 3 of this Order in any proceedings against the Crown."

7. Order 19 of the principal Rules is hereby amended by inserting immediately after Rules 4 and 27 respectively the following new Rules to be numbered 4A and 28 respectively:—

"4A. Notwithstanding anything in Rule 4 of this Order and without prejudice to the provisions of Rules 6 to 9 inclusive of this Order, every pleading in civil proceedings against the Crown shall contain information as to the circumstances in which it is alleged that the liability of the Crown has arisen and as to the branch of the Administration and officers of the Crown concerned."

"28. Any application such as is referred to in subsection (2) of section 22 of the Crown Proceedings Ordinance, 1966 (which relates to proceedings *in rem* instituted against property belonging to the Crown) may be made to the Court at any time before trial by summons or may be made at the trial of the proceedings."

8. Order 21 of the principal Rules is hereby amended by inserting immediately after Rule 8 thereof the following new Rule to be numbered 8A:—

"8A. Notwithstanding anything contained in Rule 8 of this Order a person shall not be entitled to avail himself of any counterclaim in any proceedings by the Crown for the recovery of taxes, duties or penalties, or to avail himself in proceedings by the Crown of any other nature of counterclaim arising out of a right or claim to repayment in respect of any taxes, duties or penalties."

9. Order 26 of the principal Rules is hereby amended by inserting immediately after Rule 9 the following new Rule to be numbered 9A:—

"9A. In civil proceedings against the Crown no judgement for the plaintiff shall be entered in default of pleading without the leave of the Court, and any application for such leave shall be made by summons supported by affidavit served not less than seven days before the return day."

10. Order 28 of the principal Rules is hereby amended by inserting immediately after Rules 11 and 15 thereof respectively the following new Rules to be numbered 11A and 16 respectively:—

"11A. In civil proceedings to which the Crown is a party, any affidavit to be made in answer to an order for discovery against the Crown shall be made by such officer of the Crown as the Court shall direct."

"16. In any proceedings to which the Crown is a party,

any order of the Court made under the powers conferred by subsection (1) of section 21 of the Crown Proceedings Ordinance, 1966, shall be construed as not requiring disclosure of the existence of any document, the existence of which it would in the opinion of the Administrator be injurious to the public interest or to military requirements or security to disclose."

11. The principal Rules are hereby amended by inserting immediately after Order 38 thereof the following new Order to be numbered 38A:—

"ORDER 38A:

EVIDENCE IN CIVIL PROCEEDINGS BY OR AGAINST THE CROWN.

For the avoidance of doubt it is hereby declared that any powers exercisable by the Court in regard to the taking of evidence are exercisable in civil proceedings by or against the Crown as they are exercisable in proceedings between subjects."

12. The principal Rules are hereby amended by inserting immediately after Order 43 thereof the following new Order to be numbered 43A:—

"ORDER 43A:

ORDERS AGAINST THE CROWN.

1. In this Order the following expressions have the following meanings:—

"Order against the Crown" means any order (including an order for costs) made in any civil proceedings by or against the Crown, or in connexion with any arbitration to which the Crown is a party, in favour of any person against the Crown or against an officer of the Crown as such;

"order" includes a judgement, decree, rule, award or declaration.

2. In respect of any order against the Crown the following Orders shall not apply:—

Orders 40 - 42A (Execution of judgements and orders)

Order 43 (Attachment of debts)

Order 45 (Appointment of Receivers).

3. Any application for a certificate under section 18 of the Crown Proceedings Ordinance, 1966 (which relates to satisfaction of orders against the Crown) shall be made to the Registrar or the Assistant Registrar. Any application under that section for a direction that separate certificate be issued with respect to costs ordered to be paid to the applicant shall be made to the Court, and may be made

ex parte without summons; any such certificate shall be in one of the Forms Nos. 39F - 39G in Appendix A with such variations as circumstances may require.

4.—(1) No order for the attachment of debts under Order 43 or for the appointment of a receiver under Order 45 shall be made or have effect in respect of any money due or accruing or alleged to be due or accruing from the Crown.

(2) In a case where it is alleged that such an order could have been obtained and would have had effect in respect of such money if it had been due or accruing from a subject the Court may on the applications by summons of the judgement creditor make an order restraining the judgement debtor from receiving such money and directing payment by the Crown to the judgement creditor or receiver; and the Court may appoint a receiver for that purpose.

(3) No such order shall be made in respect of—

- (a) wages or salary payable to any officer of the Crown as such;
- (b) money which is subject to the provisions of any enactment prohibiting or restricting assigning or charging or taking in execution; or
- (c) money payable by the Crown to any person on account of a deposit in any Post Office Savings Bank of any country.

(4) Any such summons shall be served at least four days before the return day on the Crown, and, unless otherwise, ordered on the judgement debtor or his advocate. Service on the judgement debtor or his advocate shall be in the manner provided for such service in Part VII of the Civil Procedure Ordinance. Service on the Crown shall be effected by service on the Legal Adviser in accordance with section 12 of the Crown Proceedings Ordinance, 1966.

(5) If the Crown disputes liability, the Court may order that any issue or question necessary for determining the Crown's liability be tried or determined in any manner in which any issue or question in a suit may be tried or determined. Where it is suggested by the Crown that the debt with reference to which the proceedings are taken belongs to some third person, or that any third person has a claim upon it, the Court may order such third person to appear and state the nature and particulars of his claim upon such debt. After hearing any such third person as aforesaid, and any other person whom by the same or any subsequent order the Court may require to appear, the Court may bar the claim of the third person, or make such order with respect to his claim as it thinks fit, upon such terms, in all cases, with respect to the third person's claim (if any) and costs, as it thinks just and reasonable. If the third person does not appear when ordered, the Court may exercise any powers which it might have exercised if he had appeared.

(6) In this rule the expression "judgement debtor" means the person against whom the order for the attachment of debts or for the appointment of a receiver is made, and the expression "judgement creditor" means the person in whose favour the order for the attachment of debts or for the appointment of a receiver is made."

13. Order 48 of the principal Rules is hereby amended by inserting immediately after rule 1 thereof the following new rule to be numbered 1A:-

"1A. Any application such as is referred to in subsection (2) of section 22 of the Crown Proceedings Ordinance, 1966, shall be made in the manner prescribed in Rule 1 of this Order."

14. Order 65 of the principal Rules is hereby amended by inserting immediately after Rule 15 thereof the following new rule to be numbered 16:-

"16. This Order shall not apply in cases of civil proceeding against the Crown."

15. The principal Rules are hereby amended by inserting immediately after Order 65 thereof the following two new orders to be numbered 66 and 67 respectively:-

"ORDER 66:

PROCEEDINGS BY OR AGAINST THE CROWN.

(1) These Rules and the provisions of the Civil Procedure Ordinance shall, so far as may be, apply to all civil proceedings by or against the Crown.

(2) Such civil proceedings as aforesaid, shall, so far as may be, take the same form as civil proceedings between subjects, and shall, if no special form is applicable, take the form of a suit instituted by a plaintiff.

ORDER 67:

INTERPRETATION.

(1) "Civil proceedings by the Crown" and "civil proceedings against the Crown" and "civil proceedings by or against the Crown" have the same respective meanings as in Part III of the Crown Proceedings Ordinance, 1966, and do not include any of the proceedings specified in subsection (3) of section 16 of that Ordinance. "Civil proceedings to which the Crown is a party" has the same meaning as it has for the purposes of Parts IV and V of the Crown Proceedings Ordinance, 1966, by virtue of subsection (3) of section 2 of that Ordinance.

(2) Except where the context otherwise requires, references in these Rules or in the Civil Procedure Ordinance

to suits where the subject matter is immovable or movable property shall be construed as including proceedings against the Crown for an order declaring that the plaintiff is entitled as against the Crown to such property or to the possession thereof.”.

16. Appendix A of the principal Rules is hereby amended by inserting immediately after form 39E therein the following two forms to be numbered 39F and 39G respectively:—

No. 39F:

CERTIFICATE OF ORDER AGAINST THE CROWN.

(Title)

By a judgement (decree) (order) of this Court dated theday of.....19...., it was adjudged, (decree) (ordered)—

(Give particulars of the judgement, decree or order).

I hereby certify that the amount payable to..... by..... in pursuance of the said judgement (decree) (order) is.... (* together with interest thereon from the.....day of..... until the date of payment, and together with costs which have been taxed and certified by the Registrar at..... Interest is payable on the said costs from the..... day of.....until the date of payment).

(** This certificate does not include the amount payable under the said judgement (decree) (order) in respect of costs.)

* Omit so far as not required.

** To be included where a separate certificate has been directed to be issued as to costs.

No. 39G:

CERTIFICATE OF ORDER FOR COSTS AGAINST THE CROWN.

(Title)

By a judgement (decree) (order) of this Court dated theday of.....19....., it was adjudged (decreed) (ordered)—

(Give particulars of the judgement, decree or order).

I hereby certify that the costs payable to..... by..... in pursuance of the said judgement (decree) (order) have been taxed and certified by the Registrar at..... (* Interest is payable on the said costs from the..... day of.....until the date of payment.)”

* Omit where not required.

Dated this 12th day of December, 1966.

By the Administrator’s Command,
J. ROBERTS,
Chief Officer,
Sovereign Base Areas.

