

A Model Interpretation Bill



Commonwealth Secretariat

A Model
Interpretation Bill

prepared for the Commonwealth Secretariat by

MR G.C. THORNTON OBE, QC,
Barrister and Solicitor of the Supreme Court of
New Zealand, Chief Parliamentary Council, Western
Australia, Latterly Solicitor-General, Hong Kong
Formerly Chief Parliamentary Draftsman, Tanzania

April 1983

Commonwealth Secretariat, Marlborough House
London SW1Y 5HX

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Printed and published by
The Commonwealth Secretariat

May be purchased from
Commonwealth Secretariat Publications
Marlborough House
London SW1Y 5HX

ISBN 0 85092 236 4

CONTENTS

Preface	v
Notes on Interpretation Bill	vii
Interpretation Bill	xvi

PREFACE

The accompanying draft Interpretation Bill was prepared for the Commonwealth Secretariat by Mr. G.C. Thornton, who is well known as the author of Legislative Drafting (Butterworths, London), a book used widely around the Commonwealth.

The draft seeks to draw upon the many existing Interpretation Acts in Commonwealth jurisdictions and to draw together what is most useful to provide the core for a model Interpretation Bill. As the notes suggest, no Interpretation Bill can be drafted in a vacuum, and any resulting Act must inevitably be designed to accommodate local matters.

It is hoped that this model may provide a useful starting point for a jurisdiction wishing to review its Interpretation legislation.

The Secretariat is, of course, greatly indebted to Mr. Thornton for his work to this end.

Legal Division
Commonwealth Secretariat
April, 1983

NOTES ON INTERPRETATION BILL

Introduction.

There are 3 principal objects of Interpretation legislation:

- (1) to shorten and simplify laws by the avoidance of needless repetition;
- (2) to promote consistency of form and language;
- (3) to clarify the law by the enactment of rules of construction.

These objects are indisputably admirable, so much so that an understandable excess of enthusiasm for the objects may generate unrealizable expectations as to the extent to which those objects may be achieved by means of Interpretation legislation. There is much in favour of up to date Interpretation legislation that is designed to be helpful to the producers and consumers of legislation, however care and restraint are essential in considering the desirability of including novel provisions. The danger is that the prime purpose of communicating the law may be hindered rather than assisted.

Not all consumers of statutes are aware of or have access to Interpretation legislation and of the remainder, alas, many are likely to overlook relevant provisions. These are not overriding considerations in view of the immense value of good practical Interpretation legislation, but they are of sufficient strength to obligate the draftsman to keep before him the thought that unless a provision in an Interpretation law serves to advance the successful expression and communication of law it should not be there.

The attached draft contains very little that is original. It owes much to those who have drafted and otherwise contributed to the development of Interpretation laws throughout the Commonwealth over the last hundred years. My study of many existing Interpretation statutes has led me to make a subjective selection of provisions I consider useful and beneficial. These I have endeavoured to reconcile and combine into a tolerably harmonious whole which might prove useful as a core on which a new Interpretation law for a country might be modelled.

I use the word "core" deliberately because, as is obvious, an Interpretation Bill cannot be drafted in vacuo. It must relate appropriately to the circumstances of the country for which it is designed, and its shape must take into account a host of local matters of a constitutional or legal nature,

e.g. whether the legislature is unicameral or bicameral, whether the country is a monarchy or a republic, the nature of the court structure and indeed the state of the statute book in a host of respects.

At best, the draft will prove to be a useful starting point and a sound basis for adaptation and elaboration to meet local needs. It necessarily rests on constitutional and other assumptions that may or may not be appropriate and for purposes of illustration it refers in various provisions to statutory provisions that may or may not correspond to the relevant law.

Clause 2 - (Commencement)

The enactment of a new Interpretation Act in place of an existing statute will inevitably involve transitional problems.

No matter how these are dealt with, it is very probable that some of the provisions contained in a new Interpretation Act should apply only to legislation enacted after that Act comes into operation.

It is quite possible therefore that such date will remain significant in terms of its practical application for many years. For this reason "1 January" is a good date to choose for commencement simply because it is easy to remember. Some postponement of the operation of the statute after the date of enactment is in any event desirable to give adequate time for it to be widely available and taken into account.

Clause 3 - (Application)

As the Renton Report stated, "the problem of applying the provisions of a new Interpretation Act to existing enactments is complex but not insuperable." There are 2 extreme possibilities and what is likely to be a more acceptable position somewhere between the 2 extremes. One extreme possibility is that the new Act should only apply to legislation enacted after its commencement and the old Act should continue to apply to existing legislation. This possibility is unattractive in that it denies the advantages of the new Act to the construction and operation of most statute law for very many years. The other extreme possibility is to apply the new Act to all legislation past and prospective. This possibility is similarly unattractive because it would very probably have the effect of amending various laws in ways neither intended nor foreseen. Consider for example, the possible effect of a newly inserted definition of a word contained but not defined in an existing statute.

It is necessary, even if tedious, to consider separately the impact on existing law of every provision in the new Act which is either different in substance from a corresponding provision in the old Act or is new. If the circumstances require, the application of such a provision can be restricted to future enactments. This can be achieved by a general provision of the kind in clause 3(1) and specific provisions to the contrary as for example in clause 22, which should be read with clause 3(3).

A somewhat similar result was achieved by a different route in the Interpretation Act 1978 (U.K.) which is expressed to apply generally only to future enactments but the provisions listed in Part I of Schedule 2 are applied also to existing laws.

As to the term "written law" in clause 3(1), see the note under clause 5.

Part II - (General Interpretation Provisions)

An important issue for consideration when an interpretation statute is being drafted is whether a general statutory direction as to the purposive or remedial interpretation of statutes should be included. Interpretation legislation of some countries has included provisions of this kind for many years. For example, section 11 of the Canadian Interpretation Act states -

" Every enactment shall be deemed remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects. "

A recent example is found in the following section which was inserted in 1981 in the Australian Acts Interpretation Act.

" 15AA. (1) In the interpretation of a provision of an Act, a construction that would promote the purpose or object underlying the Act (whether that purpose or object is expressly stated in the Act or not) shall be preferred to a construction that would not promote that purpose or object.

(2) Nothing in subsection (1) shall be construed as authorizing, in the interpretation of a provision of an Act, the consideration of any matter or document not forming part of the Act for any purpose for which that matter or document could not be considered apart from that subsection. "

Whether a provision modelled on one of the above examples is necessary or desirable is a question that is capable of being answered adequately only in the light of current judicial trends and attitudes in a particular country and for this reason the draft does not contain such a provision. The practical results of attempting to direct

courts in this manner can only be a matter of speculation.

Clause 5 (Definitions)

A definition should not be included in an Interpretation Bill unless it is expected to be of general application in a reasonably broad range of legislation. The definition must not stipulate a meaning that is significantly different from conventional usage because on a realistic view it will often be overlooked. The purpose of including definitions in Interpretation legislation is to avoid needless repetition but this must not be at the expense of successful communication. For example, a suitable definition of "Judge" might well save much needless reference to "a Judge of the Supreme Court of - " and is unlikely to confuse those who do not refer to the Interpretation Act. On the other hand a definition stipulating one of several possible meanings or a meaning either more restrictive or more extensive than the usual meaning could cause unnecessary difficulties.

Attention is drawn to the definitions of "Act", "written law" and "enactment" which classify legislation in a convenient manner. Written law is defined to include principal and subsidiary legislation and enactment is defined to include a portion of a written law.

Clause 9 - (Gender)

This provision is of note in that it extends the widely used provision so that words importing the feminine gender include the masculine. The form is taken from the Interpretation Act 1978 (U.K.).

Clause 11 - (References to Minister)

It is convenient to be able to adopt a practice of referring in legislation to "the Minister" rather than to particular designations such as "the Minister for Agriculture and Fisheries". The obvious difficulty with particular designations is that they tend, as a result of ministerial re-organizations, to become outdated, misleading and at worst ineffective. A provision such as clause 11 enables problems of this kind to be avoided.

Clause 14 - (Internal references to section etc.)

A provision similar to this clause is found in many Commonwealth jurisdictions and enables simpler references to become accepted standard practice. The necessity, however, for the clause is in my opinion doubtful and some countries rely instead on the common sense of their Courts to construe references in the manner set out at great length in the clause.

Clause 16 - (Disjunctive construction of "or")

This provision is significant in that it serves to disapply the eiusdem generis rule. The clause is taken from a definition in operation in a number of jurisdictions (e.g. Hong Kong).

Clause 17 - (Commencement)

This clause provides for Acts to come into force on the 28th day after assent unless contrary provision is made. It has been adapted from the Acts Interpretation Act of the Commonwealth of Australia. The provision is a useful provision of general application particularly in a large country where time is necessary for copies of a new law to be distributed and available. Apart from this factor, a 28 day period should avoid the complaints that quite properly arise if a statute is unavailable at the time it comes into force. Of course contrary provision can be made where the commencement circumstances make this necessary.

Clause 19 - (Commencement of commencement provision)

Where a commencement provision starts "This Act comes into operation on - "argument is possible as to the time when the commencement provision itself comes into operation. This clause, which is adapted from Manitoba, avoids the doubt. It also avoids the need (if one accepts that a doubt exists!) for the rather clumsy practice (cf. New South Wales) of providing a separate commencement provision for the commencement provision.

Clause 22 - (Exercise of powers before commencement)

This clause is a development of the useful but troublesome provision in section 37 of the Interpretation Act 1889. It takes into account the 1978 U.K. version which gave effect to Law Reform Commission recommendations. It also extends the effect of that provision so that it applies to amending legislation. A further refinement removes doubt as to the commencement of the term of office of a person appointed and acting under the power before the provision commences.

If this clause is in substitution for an existing provision, consideration should be given to the desirability of a savings provision in order to preserve the application of the previous provision to Acts passed but not in operation when the new provision commences

Clause 29 - (Headings, marginal notes etc.)

Clause 29(2) (adapted from the Commonwealth of Australia) includes reference to "heading to a section". This provision is the result of a change in presentation style in that jurisdiction whereby marginal or side notes have been

replaced by section headings.

Consideration should also be given to provision concerning punctuation and also the short title. In my opinion punctuation should be regarded as part of the enactment, but whichever view is taken it is desirable that a provision be included removing doubt. Of interest is the following clause from the Interpretation of Legislation Bill 1980 introduced to the House of Lords by Lord Scarman to give effect to Law Reform Commission recommendations. The Bill was not enacted.

" (1) In ascertaining the meaning of any provision of an Act, the matters which may be considered shall, in addition to those which may be considered for that purpose apart from this section, include the following, that is to say -

- (a) all indications provided by the Act as printed by authority, including cross headings, punctuation and side-notes, and the short title of the Act;
- (b) any relevant report of a Royal Commission, Committee or other body which had been presented or made to or laid before Parliament or either House before the time when the Act was passed;
- (c) any relevant treaty or other international agreement which is referred to in the Act or of which copies had been presented to Parliament by command of Her Majesty before that time, whether or not the United Kingdom were bound by it at that time;
- (d) any other document bearing upon the subject-matter of the legislation which had been presented to Parliament by command of Her Majesty before that time;
- (e) any document (whether falling within the foregoing paragraphs or not) which is declared by the Act to be a relevant document for the purposes of this section.

(2) The weight to be given for the purposes of this section to any such matter as is mentioned in subsection (1) shall be no more than is appropriate in the circumstances.

(3) Nothing in this section shall be construed as authorising the consideration of reports of proceedings in Parliament for any purpose for which they could not be considered apart from this section. ".

Clause 38 - (Commencement of subsidiary legislation)

Subclause (1) should be compared with clause 17(2) and consideration given to a like provision e.g. commencement might be 28 days after publication in the Gazette unless otherwise provided.

It is important to include provision in some sufficient manner for the publication of subsidiary legislation.

Clause 40 - (Powers to make subsidiary legislation)

Subclause (2) is of practical value. Although presentation styles may differ, it is desirable that the source or authority for a particular piece of subsidiary legislation should somewhere appear on its face. In all but very straightforward cases, this practice is inhibited in the absence of subclause (2) by the fear of omitting reference to one or more source provisions and thereby possibly casting doubt on the vires of the legislation.

Subclause (3) does not derogate in any way from the necessity to comply with any condition precedent attached to the exercise of a power to make subsidiary legislation; it goes no further than to presume compliance.

Clause 52 - (Correction of erroneous exercise of power)

Twenty-five years' experience of various public services has provided me with proof beyond reasonable doubt of the universality of the occurrence of inexplicable human errors. This clause, adapted from a New Zealand model, offers some relief.

Clause 55 - (Delegation)

This clause is taken from an Australian model and removes the doubt which might otherwise arise in the case of the delegation of a statutory function expressed to be dependent upon a state of mind or opinion of the person on whom the power is conferred.

Clause 58 - (Computation of time)

So much unnecessary confusion (and expensive litigation) can arise from careless drafting in this area that a clause along these lines is very strongly recommended. A draftsman's prime responsibility in relation to provisions as to time is to achieve certainty, and clause 58 should enable this to be achieved.

Clause 59 - (Computation of months)

This excellent provision is of Ghanaian origin. The examples are not essential and could be omitted, but to me at least they do assist easier understanding.

Part IX - (Procedures and Penalties)

The contents of this Part may in some jurisdictions be more suitably dealt with in legislation specifically dealing with criminal procedure. In any event a check must be made to ensure desirability and compatibility.

Clause 68 - (Statement of penalty)

In days gone by, it was not unusual to find near the end of an Act an omnibus penalty provision which provided that contraventions of the Act amounted to offences and stipulated a penalty for such offences. Such provisions are objectionable because of the doubt that may arise as to which conduct constitutes an offence. For example, a provision of procedural type, intended to be directory rather than mandatory, might quite unintentionally be constituted penal in nature. It is essential that it be clear from a reading of a provision whether a breach of that provision amounts to an offence. One method of achieving this is the formula - "A person who commits an offence and is liable to a". An alternative which is widely used in Australia is authorized by a general provision along the lines of clause 68. The provision permits some shortening of penal provisions but does make it clear that a penal provision is created. Clause 68 does no more than offer an acceptable alternative to the more traditional formulations.

INTERPRETATION BILL 1983

(No. of 1983)

ARRANGEMENT

<u>Clause</u>		<u>Page</u>
PART I - PRELIMINARY		
1.	Short title.	1
2.	Commencement.	1
3.	Application.	1
4.	Act to bind Crown.	2
PART II - GENERAL INTERPRETATION PROVISIONS		
5.	Definitions applicable to written laws.	2
6.	Application of definitions.	9
7.	Law always speaking.	9
8.	Parts of speech and grammatical forms.	9
9.	Gender and number.	9
10.	References to Sovereign.	9
11.	References in written law to Minister.	9
12.	Membership of Commonwealth.	10
13.	References by number to be inclusive.	11
14.	Construction of internal references to section etc.	11
15.	Reference to written law as amended.	12
16.	Disjunctive construction of "or".	12

<u>Clause</u>		<u>Page</u>
	PART III - COMMENCEMENT AND CITATION	
17.	Commencement of Acts.	13
18.	Time of commencement of written laws.	13
19.	Effective date of commencement provision where proclama- tion required.	13
20.	Construction of power to fix commencement day of Act.	13
21.	Evidence of date of assent.	14
22.	Exercise of powers before commencement.	14
23.	Citation of written laws.	16
24.	References in written law to day of commencement.	17
	PART IV - PROVISIONS AS TO ENACTMENT AND OPERATION OF WRITTEN LAW	
25.	Acts deemed public Acts.	17
26.	Sections to be substantive enactments.	17
27.	Act may be amended in same session.	17
28.	Preambles and Schedules.	17
29.	Headings, marginal notes and footnotes.	17
	PART V - REPEAL OF WRITTEN LAW	
30.	Repeal of written law as amended.	18
31.	Repeal of repeal.	18
32.	Repeal and substitution.	18
33.	Effect of substituting provisions.	18

<u>Clause</u>		<u>Page</u>
34.	General savings on repeal.	19
35.	Effect of repeal of Act on subsidiary legislation.	20
36.	Effect of expiry of written law.	20
	PART VI - SUBSIDIARY LEGISLATION	
37.	Governor-General to make subsidiary legislation.	20
38.	Publication and commencement of subsidiary legislation.	21
39.	Laying regulations before Parliament and disallowance.	21
40.	General provisions regarding power to make subsidiary legislation.	23
41.	Words and expressions in subsidiary legislation.	25
42.	Fees and charges.	25
43.	Reference to written law to include subsidiary legislation.	26
44.	Acts under subsidiary legislation deemed done under Act.	27
	PART VII - STATUTORY POWERS AND DUTIES	
45.	Time for exercise of power or performance of duty.	27
46.	Reference to holder of office includes successors.	27
47.	Construction of enabling words.	27
48.	Power to issue licences etc. discretionary.	28

<u>Clause</u>		<u>Page</u>
49.	Power to appoint includes power to suspend, dismiss, etc.	28
50.	Appointments by name or office.	29
51.	Power of majority, quorum, etc.	30
52.	Exercise of power may be corrected.	31
53.	"May" imports a discretion, "shall" is imperative.	31
54.	Power of board etc. not affected by vacancy or certain defects.	31
55.	Exercise of certain powers by delegate.	32
56.	Construction of power to delegate.	32
57.	Governor-General to act with advice of Executive Council.	33
PART VIII - PROVISIONS REGARDING TIME AND DISTANCE		
58.	Computation of time.	33
59.	Reckoning of months.	34
60.	Provision where no time fixed.	35
61.	Construction of power to extend time.	35
62.	Measurement of distance.	35
PART IX - PROCEDURES AND PENALTIES		
63.	Rules of Court.	35
64.	Recovery of fines and penalties.	36
65.	Double jeopardy.	36

<u>Clause</u>		<u>Page</u>
66.	Application of penal laws to bodies corporate.	36
67.	Prescription of maximum, minimum, daily and cumulative penalties.	37
68.	Statement of penalty at end of provision.	37
69.	Continuing offences.	38
	PART X - MISCELLANEOUS PROVISIONS	
70.	Deviation in forms.	40
71.	Service of documents by post.	40
72.	Service of documents generally.	40
73.	Repeal.	41

SCHEDULE 1.

A BILL

for

AN ACT to amend and consolidate the law relating to the construction, application, interpretation, and operation of written law; to provide for the exercise of statutory powers and duties; and to provide for connected or incidental purposes.

BE it enacted etc.

PART I - PRELIMINARY

Short title.

1. This Act may be cited as the Interpretation Act 1983.

Commencement.

2. This Act shall come into operation on 1 January 1984.

Application.

3. (1) The provisions of this Act apply to every written law, whether the law was enacted, passed, made or issued before or after the commencement of this Act, unless in relation to a particular written law -

- (a) express provision is made to the contrary in an Act;
- (b) in the case of an Act, the intent and object of the Act or something in the subject or context of the Act is inconsistent with such application; or

(c) in the case of subsidiary legislation, the intent and object of the Act under which that subsidiary legislation is made is inconsistent with such application.

(2) The provisions of this Act apply to this Act as they apply to an Act passed after this Act commences.

(3) A reference in section 16, 22, 40(6), 42, 47 or 61 to an Act, written law, enactment, or subsidiary legislation passed or made after the commencement of this Act shall be construed so as not to include any enactment which continues or directly amends, but does not repeal entirely, the text of an existing written law.

Act to bind Crown.

4. This Act binds the Crown.

PART II - GENERAL INTERPRETATION PROVISIONS

Definitions applicable to written laws.

5. In this Act and every other written law -

"act" used with reference to an offence or civil wrong includes an omission and extends to a series of acts or omissions or a series of acts and omissions;

"Act" means any Act or Ordinance passed by the Parliament of _____, or by any Council previously having authority or power to pass laws in _____, such Act or Ordinance having been assented to by or on behalf of Her Majesty;

"affidavit" in the case of persons allowed by law to affirm or to declare instead of swearing, includes affirmation and declaration;

"amend" means replace, substitute, in whole or in part, add to or vary, and the doing of any two

- or more of such things simultaneously or by the same written law;
- "Auditor-General" means the Auditor-General appointed under the Audit Act 1904;
- "bank holiday" means a day that is appointed a bank holiday by or under the Public and Bank Holidays Act 1972;
- "British possession" means any part of Her Majesty's dominions outside the United Kingdom; and where parts of such dominions are under both a central and a local legislature, all parts under the central legislature are deemed, for the purposes of this definition, to be one British possession;
- "by-law" means a by-law made under the Act in which the term is used;
- "commencement" in relation to an enactment, means the time when the enactment came or comes into operation;
- "Commonwealth citizen" means a person who is recognized by the law of a Commonwealth country as being a citizen of that country;
- "Commonwealth country" means a country that is an independent sovereign member of the Commonwealth;
- "contravene" in relation to any requirement or condition prescribed in a written law or in any grant, permit, lease, licence, or other authority under a written law, includes a failure to comply with that requirement or condition;
- "court of summary jurisdiction" or "Court of petty sessions" means any justice or justices or stipendiary magistrate to whom jurisdiction is given by, or who is authorized to act under the Justices Act 1902, and whether acting thereunder, or under any other Act, or by virtue

of his commission, or under the common law;

"definition" means the interpretation given by any written law to a word or expression;

"District Court" means the District Court of _____ established by the District Court _____ Act 1969;

"District Court Judge" means a Judge or acting Judge of the District Court _____ ;

"document" includes any publication and any matter written, expressed, or described upon any substance by means of letters, figures, or marks, or by more than one of those means, which is intended to be used or may be used for the purpose of recording that matter;

"enactment" means a written law or any portion of a written law;

"estate", in relation to land, includes any legal or equitable estate or interest, easement, right, title, claim, demand, charge, lien, or encumbrance in, over, to, or in respect of the land;

"financial year" means the period of 12 months ending on 30 June;

"function" includes powers, duties, responsibilities, authorities, and jurisdictions;

"Gazette" or "Government Gazette" means The Government Gazette of _____ printed and published, or purporting to be printed and published, by the Government Printer and includes any supplement to the Gazette;

"Government" means the Government of _____ ;

"Government Printer" means the Government Printer of _____ and any other printer authorized by or on behalf of the Government to print any written law or any other document of the Government;

"Governor-General" means the Governor-General
of _____ and includes the officer
for the time being administering the
Government _____ ;

"Her Majesty", "His Majesty", "the Queen", "the King"
or "the Crown" means the Sovereign of the United
Kingdom, _____ and Her other Realms and
Territories, and Head of the Commonwealth and
includes the predecessors and the heirs and
successors of the Sovereign;

"Imperial Act" means an Act passed by the Parliament
of the United Kingdom;

"individual" means a natural person;

"Judge" means a Judge or acting Judge of the Supreme
Court;

"Justice" means a Justice of the Peace;

"land" includes buildings and other structures, land
covered with water, and any estate, interest,
easement, servitude or right in or over land;

"Minister" has the meaning given in section 11;

"month" has the meaning given to it by section 59;

"oath" in the case of persons allowed by law to
affirm or to declare instead of swearing,
includes affirmation and declaration;

"Parliament" means the Parliament of _____ ;

"penalty" means a fine, imprisonment, or other form
of punishment;

"perform" in relation to functions, includes the
exercise of a power, responsibility, authority,
or jurisdiction;

"person" or any word or expression descriptive of a
person includes a public body, company, or
association or body of persons, corporate or
unincorporate;

"police officer" means a person appointed -

- (a) under Part I of the Police Act 1892, to be a member of the Police Force of _____ ; or
- (b) under Part III of the Police Act 1892, to be a special constable;

"power" includes any privilege, authority, or discretion;

"prescribed" means -

- (a) prescribed by or under the written law in which the word occurs; and
- (b) in a case where reference is made to anything prescribed by a written law other than the law in which the word occurs, includes anything prescribed by subsidiary legislation made under that other written law;

"proclamation" means proclamation made by the Governor-General and published in the Gazette;

"publication" means -

- (a) all written and printed matter;
- (b) any record, tape, wire, perforated roll, cinematograph film or images or other contrivance by means of which any words or ideas may be mechanically, electronically, or electrically produced, reproduced, represented, or conveyed;
- (c) anything whether of a similar nature to that described in paragraph (b) of this definition or not, containing any visible representation, or by its form, shape, or in any manner, capable of producing, reproducing, representing, or conveying words or ideas; and
- (d) every copy and reproduction of a publication as defined in paragraphs (a), (b) or (c) of this definition;

"public holiday" means a day that is appointed a public holiday by or under the Public and Bank Holidays Act 1972;

"public place" includes -

- (a) any public street or way or pier, or any public garden;
- (b) any building, place or conveyance to which, for the time being, the public are entitled or permitted to have access, either unconditionally or upon condition of making payment; and
- (c) any building, place or conveyance which is for the time being used for any public or religious meeting or assembly or as an open court;

"Public Service Board" means the Public Service Board established by the Public Service Act 1978;

"regulation" means a regulation made under the Act in which the term is used;

"repeal" includes rescind, revoke, cancel, or delete;

"rule" means a rule made under the Act in which the term is used;

"sell" includes barter, exchange, offer to sell and expose for sale;

"sign" includes the affixing or making of a seal, mark, thumbprint, or chop;

"sitting days" in relation to either House of Parliament, means days on which such House actually sits;

"statutory declaration" means -

- (a) if made in _____, a declaration made under the Evidence Act 1906 or the Declarations and Attestations Act 1913;
- (b) if made in the United Kingdom or a country or territory forming part of the Commonwealth,

"writing" and expressions referring to writing include printing, photography, photocopying, lithography, typewriting and any other modes of representing or reproducing words in visible form;

"written law" means all Acts for the time being in force and all subsidiary legislation for the time being in force;

"year" means a period of 12 months.

Application of definitions.

6. Definitions or rules of interpretation contained in a written law apply to the construction of the provisions of the written law that contain those definitions or rules of interpretation as well as to other provisions of that written law.

Law always speaking.

7. A written law shall be considered as always speaking and whenever a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise, so that effect may be given to every part of the law according to its true spirit, intent, and meaning.

Parts of speech and grammatical forms.

8. Where a word or phrase is defined in a written law, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

Gender and number.

9. In any written law -

- (a) words importing the masculine gender include the feminine;
- (b) words importing the feminine gender include the masculine;
- (c) words in the singular number include the plural and words in the plural number include the singular.

References to Sovereign.

10. A reference in a written law to the Sovereign reigning at the time the law was enacted or made, or to the Crown, shall be construed as a reference to the Sovereign for the time being.

References in written law to Minister.

11. A reference in a written law to the Minister shall be construed -

- (a) in the case of a reference in an Act, as a reference to the Minister of the Crown to whom the administration of the Act, or the provision of the Act, in which or in respect of which the term is used, is for the time being committed by the Governor-General;
- (b) in the case of a reference in subsidiary legislation, as a reference to the Minister of the Crown to whom the administration of the Act, or the provision of the Act, under which the subsidiary legislation is made, is for the time being committed by the Governor-General; and
- (c) so as to include a Minister of the Crown for the time being acting for or on behalf of the Minister referred to in paragraph (a) or (b), as the case may require.

Membership of Commonwealth.

12. (1) In any proceeding before a Court or a person or authority acting judicially -

- (a) a certificate signed by the Permanent Secretary of the Ministry of Foreign Affairs, or a Deputy Secretary of that Ministry that on a date specified in the certificate a specified country was or was not a Commonwealth country, or that a specified territory was or was not one for whose international relations a specified Commonwealth country was responsible, shall be conclusive

evidence of the matters stated in the certificate; and

- (b) if no certificate under paragraph (a) is produced relating to a country, the fact that the country is specified in Schedule 1 shall be conclusive evidence that that country is a Commonwealth country and the fact that the country is not so specified shall be conclusive evidence that it is not a Commonwealth country.

(2) The Governor General may by order in council amend Schedule 1 by adding to it the names of countries that have become Commonwealth countries or deleting from it the names of countries that have ceased to be Commonwealth countries.

(3) An order made under subsection (2) may declare the date from which Schedule 1 is amended in respect of a particular country whether that date is before, on, or after the date on which the order is made.

(4) The Court or the person or authority acting judicially to which or to whom a certificate under subsection (1) is produced shall take judicial notice of the signature on the certificate of the Permanent Secretary or a Deputy Secretary of the Ministry of Foreign Affairs, as the case may require.

References by number to be inclusive.

13. A reference in a written law by number or letter or by number and letter to 2 or more portions of a written law shall be construed as including the portion described by the reference first mentioned and the portion described by the reference last mentioned.

Construction of internal references to section etc.

14. (1) Where in an Act reference is made to a Part, Chapter, section, schedule, appendix or form without anything in the context to indicate that a reference to a Part, Chapter, section, schedule, appendix, or form of or to some other Act

is intended, the reference shall be construed as a reference to a Part, Chapter, section, schedule, appendix, or form of or to the Act in which the reference is made.

(2) Where in a provision of an Act reference is made to a subsection, paragraph, subparagraph, or other division without anything in the context to indicate that a reference to a subsection, paragraph, subparagraph, or other division of some other provision is intended, the reference shall be construed as a reference to a subsection, paragraph, subparagraph, or other division of the provision in which the reference is made.

(3) Where in a schedule to an Act reference is made to a clause, subclause, paragraph, or other division without anything in the context to indicate that a reference to a clause, subclause, paragraph, or other division of some other provision is intended, the reference shall be construed as a reference to a clause, subclause, paragraph, or other division of the schedule or provision of the schedule in which the reference is made.

(4) The provisions of subsections (1), (2), and (3) shall apply, subject to the necessary modifications, to the construction of subsidiary legislation.

Reference to written law as amended.

15. (1) A reference in a written law to a written law shall be deemed to include a reference to such written law as it may from time to time be amended.

(2) A reference in a written law to a provision of a written law shall be construed as a reference to such provision as it may from time to time be amended.

(3) A reference in a written law to an Imperial Act, or to a provision of an Imperial Act, shall be construed so as to include a reference to such Act or provision as it may from time to time be amended.

**Disjunctive construction
of "or".**

16. In relation to a written law passed or made after the commencement of this Act, but subject to section 3(3), "or", "other", and "otherwise" shall be construed disjunctively and not as implying similarity unless the word "similar" or some other word of like meaning is added.

PART III - COMMENCEMENT AND CITATION

Commencement of Acts.

17. (1) Every Act to which the Royal Assent has been given before 1 January 1984 shall be deemed to have come into operation on the day on which that Act received the Royal Assent, unless the contrary intention appears in the Act.

(2) Every Act to which the Royal Assent is given on or after 1 January 1984 shall, unless the contrary intention appears in that Act, come into operation on the 28th day after the day on which that Act receives the Royal Assent.

**Time of commencement
of written laws.**

18. Where any written law, or portion of a written law, comes into operation on a particular day, it shall come into operation at the beginning of that day.

**Effective date of commencement
provision where proclamation
required.**

19. Notwithstanding section 17(2), where an Act provides that the Act, or portion of the Act, is to come into operation on a day to be fixed by proclamation, that provision and the provision providing for the short title of the Act, unless it is otherwise expressly provided, shall come into operation on the day on which the Act receives the Royal Assent.

**Construction of power
to fix commencement day
of Act.**

20. A power to fix a day on which an Act shall come into operation does not include power to fix -

- (a) a day prior to the day on which the proclamation fixing the day is published in the Gazette; or
- (b) different days for different provisions of that Act, unless express provision is made in that behalf.

Evidence of date of assent.

21. Where a date appearing on a copy of an Act printed, or purporting to be printed, by the Government Printer, purports to be the date on which the Governor-General assented to such Act or to a portion thereof, that date as so appearing shall be evidence that such date was the date on which the Governor-General so assented, and shall be judicially noticed accordingly.

**Exercise of powers before
Commencement.**

22. (1) Where a provision of an Act does not commence on the passing of the Act and that provision would, if it had commenced, confer power to -

- (a) make an instrument of a legislative or administrative character;
 - (b) give or serve a notice or other document;
 - (c) appoint a person to a specified office;
 - (d) establish a specified body of persons, whether incorporated or not; or
 - (e) do any other thing for the purposes of the Act,
- then the power may, notwithstanding that that provision has not commenced, but subject to subsections (3) and (4), be exercised at any time after the passing of the Act to the extent that it is necessary or expedient for the purpose of

bringing the Act, or provisions of the Act, into operation, or giving full effect to the Act, or provisions of the Act, when or after that provision commences.

(2) Where -

- (a) a provision of an Act does not commence on the passing of the Act and the provision would, if it had commenced, amend another Act; and
- (b) a provision of that other Act would, if the first-mentioned provision had commenced, confer power to -
 - (i) make an instrument of a legislative or administrative character;
 - (ii) give or serve a notice or other document;
 - (iii) appoint a person to a specified office;
 - (iv) establish a specified body of persons whether incorporated or not; or
 - (v) do any other thing for the purposes of that other Act,

then the power may, notwithstanding that the first-mentioned provision has not commenced, but subject to subsections (3) and (4), be exercised at any time after the passing of the Act in which the first-mentioned provision is contained to the extent that it is necessary or expedient for the purpose of giving full effect to that other Act, or provisions of that other Act, when or after the first-mentioned provision commences.

(3) Where a power to make an instrument of a legislative or administrative character, or to give or serve a notice or other document, is exercised as provided in subsection (1) or in subsection (2), that instrument, notice, or document shall take effect -

- (a) on the day on which the provision referred to in subsection (1) or, as the case may be, the provision first mentioned in subsection (2) commences; or

- (b) on the day on which it would have taken effect, if at the time when the instrument was made or the notice or document was given or served, the provision so mentioned or first mentioned had commenced,

whichever is the later.

(4) Where a power to appoint a person to a specified office, or to establish a specified body of persons, is exercised as provided in subsection (1) or subsection (2), the person so appointed may act in that office, or, as the case may be, the body so established may meet and perform and exercise its functions, duties, and powers, but only for a purpose referred to in subsection (1) or subsection (2) (whichever of those subsections is applicable); and for the purposes of any provision as to the duration of the term of office of the person or a member of the body, that term is deemed not to begin until the relevant provision referred to in subsection (1) or (2), as the case may be, commences.

(5) Subject to section 3(3), this section applies to Acts passed after the commencement of this Act.

Citation of written laws.

23. (1) Where a written law is referred to, it shall be sufficient for all purposes to cite or refer to that written law by -

- (a) the short title or the citation (if any) by which it was made citable;
- (b) in the case of an Act, the year in which it was passed and its number among the Acts of that year; or
- (c) in the case of an Act, the Chapter number given to the Act in any revised edition of the laws.

(2) A provision of a written law may be cited by reference to the Part, section, regulation, rule, clause or other division of the written law in which the provision is contained.

(3) The citation of or reference to any written law shall in all cases be made according to the copy of such written law printed, or purporting to be printed, by the Government Printer.

References in written law to day of commencement.

24. A reference in a written law to the day of coming into operation or to the commencement of a written law shall, where different provisions of the written law come or came into operation on different days, be construed as a reference to the day of coming into operation of the appropriate provisions of that written law.

PART IV - PROVISIONS AS TO ENACTMENT AND OPERATION OF WRITTEN LAW

Acts deemed public Acts.

25. Every Act shall be deemed to be a public Act unless the contrary is expressly provided in the Act and shall be judicially noticed as such.

Sections to be substantive enactments.

26. Every section of an Act takes effect as a substantive enactment without introductory words.

Act may be amended in same session.

27. An Act may be amended or repealed in the same session of Parliament as that in which it was passed.

Preambles and Schedules.

28. (1) The preamble to a written law forms part of the written law and shall be construed as a part thereof intended to assist in explaining its purport and object.

(2) An appendix or schedule to or a table in a written law, together with any notes thereto, forms part of the written law.

Headings, marginal notes and footnotes.

29. (1) The headings of the parts, divisions and subdivisions into which a written law is divided form part of the written law.

(2) A marginal note or footnote to a written law and, notwithstanding subsection (1), a heading to a section, regulation, rule, by-law, or clause of a written law shall be taken not to be part of the written law.

PART V - REPEAL OF WRITTEN LAW

Repeal of written law as amended.

30. Where a written law which has been amended by any other written law is repealed, such repeal shall include the repeal of all those provisions of such other written law by which the first-mentioned written law was amended.

Repeal of repeal.

31. Where a written law repeals a repealing enactment, the repeal does not revive any enactment previously repealed unless words are added reviving it.

Repeal and substitution.

32. Where a written law repeals an enactment and substitutes provisions for the enactment repealed, the repealed enactment remains in operation until the substituted provisions come into operation.

Effect of substituting provisions.

33. Where a written law repeals and re-enacts, with or without modification, any enactment -

- (a) all districts or other local divisions or areas;
- (b) all councils, corporations, boards, tribunals, commissions, trusts, or other bodies constituted, and all elections and appointments of members thereof made; and
- (c) all offices constituted and appointments of officers made;

(d) all subsidiary legislation, warrants, certificates, and documents made; and

(e) all other acts, matters, and things whatsoever, which, at the commencement of the repealing law, are respectively in existence, or in force or operation, under or for the purposes of such provision, shall, in so far as is consistent with the repealing law, subsist and enure for the purposes of such law and shall continue as if the repealing law had been in operation when they respectively originated or were constituted, made or done and they had originated or been constituted, made or done under that law.

General savings on repeal

34. (1) Where a written law repeals an enactment, the repeal does not, unless the contrary intention appears -

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of the enactment repealed or anything duly done or suffered under that enactment;
- (c) affect any right, interest, title, power or privilege created, acquired, accrued, established or exercisable or any status or capacity existing prior to the repeal;
- (d) affect any duty, obligation, liability, or burden of proof imposed, created, or incurred prior to the repeal;
- (e) affect any penalty or forfeiture incurred or liable to be incurred in respect of an offence committed against that enactment;
- (f) affect any investigation, legal proceeding or remedy in respect of any such right, interest, title, power, privilege, status, capacity, duty, obligation, liability, burden of proof, penalty or forfeiture,

and any such investigation, legal proceeding or remedy may be instituted, continued, or enforced, and any such penalty or

forfeiture may be imposed and enforced as if the repealing written law had not been passed or made.

(2) The inclusion in the repealing provisions of an enactment of any express saving with respect to the repeals effected thereby shall not be taken to prejudice the operation of this section with respect to the effect of those repeals.

Effect of repeal of Act on subsidiary legislation.

35. (1) Where an Act -

- (a) repeals an Act and substitutes other provisions therefor; or
- (b) repeals and re-enacts an Act, with or without modification,

any subsidiary legislation made under the repealed Act and in operation immediately before the commencement of the repealing Act shall, so far as it is consistent with the repealing Act, continue in operation and have effect for all purposes as if made under the repealing Act.

(2) Subsidiary legislation which continues in operation under subsection (1), may be amended or repealed as if it had been made under the repealing Act.

Effect of expiry of written law.

36. Upon the expiry or lapse of any enactment, the provisions of section 34 apply as if that enactment had been repealed.

PART VI - SUBSIDIARY LEGISLATION

Governor-General to make subsidiary legislation.

37. If a written law provides that subsidiary legislation may or shall be made and does not provide by whom such subsidiary legislation may or shall be made, any subsidiary legislation made under such a provision shall be made by the Governor-General.

**Publication and commencement
of subsidiary legislation.**

38. (1) Where a written law confers power to make subsidiary legislation, all subsidiary legislation made under that power shall, unless the contrary intention appears -

- (a) be published in the Gazette;
- (b) subject to subsection (2) and to section 39, come into operation on the day of publication, or where another day is specified or provided for in the subsidiary legislation, on that day.

(2) Subsidiary legislation shall not be expressed to come into operation on a day before the day of publication in any case where, if the subsidiary legislation so came into operation -

- (a) the rights of a person (other than the Crown or an authority of the Crown) existing immediately before the day of publication would be affected in a manner prejudicial to that person ;or
- (b) liabilities would be imposed on any person (other than the Crown or an authority of the Crown) in respect of anything done or omitted to be done before the day of publication,

and if any provision is made in contravention of this subsection, that provision shall be void.

(3) A power to fix a day on which subsidiary legislation shall come into operation does not include power to fix different days for different provisions of that legislation unless express provision is made in that behalf.

**Laying regulations before
Parliament and disallowance.**

39. (1) All regulations shall be laid before each House of Parliament within 6 sitting days of such House next following publication of the regulations in the Gazette.

(2) Notwithstanding any provision in any Act to the contrary, if either House of Parliament passes a resolution disallowing any regulations of which resolution notice has been given within 14 sitting days of such House after such

regulations have been laid before it or if any regulations are not laid before both Houses of Parliament in accordance with subsection (1), such regulations shall thereupon cease to have effect, but without affecting the validity or curing the invalidity of anything done or of the omission of anything in the meantime.

(3) Subsection (2) applies notwithstanding that the period of 14 days referred to in that subsection, or part of that period, does not occur in the same session of Parliament or during the same Parliament as that in which the regulation is laid before the House concerned.

(4) Notwithstanding any provision in any Act to the contrary, if both Houses of Parliament at any time pass a resolution originating in either House amending any such regulation or substituting another regulation or part of a regulation for that which has been disallowed by either House under subsection (2), then on the passing of any such resolution -

- (a) amending a regulation or part of a regulation the regulation or part of a regulation so amended shall, after the expiration of 7 days from the publication in the Gazette of the notice provided for in subsection (5), take effect as so amended;
- (b) substituting a regulation or part of a regulation in place of a regulation disallowed, the regulation or part of a regulation so substituted shall, after the expiration of 7 days from the publication in the Gazette of the notice provided for in subsection (5), take effect in place of that for which it is so substituted.

(5) When a resolution has been passed under subsection (2) or (4), notice of such resolution shall be published in the Gazette within 21 days of the passing of the resolution.

(6) Notwithstanding section 34(1), where -

- (a) regulations are disallowed under this section;

and

- (b) those regulations amended or repealed regulations that were in operation immediately before the first-mentioned regulations commenced,

the disallowance revives the previous regulations on and after the day of the disallowance.

(7) If a written law which empowers or directs the making of regulations by a person other than the Governor-General and requires that the regulations be confirmed or approved by the Governor-General or by any other person or authority before having the force of law, subsection (1) does not apply to such regulations unless they are confirmed or approved as so required.

(8) In this section "regulations" include rules and by-laws.

General provisions regarding power to make subsidiary legislation.

40. (1) Subsidiary legislation shall not be inconsistent with the provisions of the written law under which it is made, or of any Act, and subsidiary legislation shall be void to the extent of any such inconsistency.

(2) Where any subsidiary legislation purports to be made in exercise of a particular power or powers, it shall be deemed also to be made in exercise of all powers under which it may be made.

(3) It shall be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to the making of subsidiary legislation have been complied with and performed.

(4) Where a written law confers a power to make subsidiary legislation, it shall be deemed also to include a power exercisable in the like manner and subject to the like conditions (if any) to amend or repeal any such subsidiary legislation; and if the person on whom such power is conferred has been replaced wholly or in part by another person, the

power conferred by this subsection upon the original person may be exercised by the replacing person concerning all matters or things within his jurisdiction as if he were the original person.

(5) Where a written law confers power on a person to make subsidiary legislation for any general purpose and also for any special purposes incidental thereto, the enumeration of the special purposes shall not derogate from the generality of the powers conferred with reference to the general purpose.

(6) Subject to section 3(3), subsidiary legislation may provide that contravention of a provision thereof constitutes an offence and may provide for a penalty in respect of such a contravention not exceeding a fine of \$1 000.

(7) A power to make subsidiary legislation may be exercised -

(a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or class of case; and

(b) so as to make, as respects the cases in relation to which it is exercised -

(i) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or classes of case, or different provisions for the same case or class of case for different purposes of the legislation; or

(ii) any such provision either unconditionally or subject to any specified condition.

(8) Subsidiary legislation may be made -

(a) so as to apply -

(i) at all times or at a specified time;

(ii) throughout or in a specified part of ;

(b) so as to require a matter affected by the legislation to be -

- (i) in accordance with a specified standard or specified requirement;
- (ii) approved by or to the satisfaction of a specified person or body or a specified class of person or body;
- (c) so as to confer a discretionary authority on a specified person or body or a specified class of person or body; and
- (d) so as to provide, in a specified case or class of case for the exemption of persons or things or a class of persons or things from the provisions of the subsidiary legislation, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.

(9) In subsections (7) and (8) "specified" means specified in the subsidiary legislation.

Words and expressions in subsidiary legislation.

41. (1) Words and expressions used in subsidiary legislation shall have the same respective meanings as in the written law under which the subsidiary legislation is made.

(2) A reference in subsidiary legislation to "the Act" shall be construed as a reference to the Act under which the subsidiary legislation is made.

Fees and charges.

42. (1) Subsidiary legislation may provide for the imposition of fees and charges in respect of any matter with regard to which provision is made in such subsidiary legislation or in the written law under which such subsidiary legislation is made.

(2) Where provision is made by subsidiary legislation in respect of fees or charges, the subsidiary legislation may provide for all or any of the following matters -

- (a) specific fees or charges;
- (b) maximum or minimum fees or charges;

- (c) maximum and minimum fees or charges;
- (d) ad valorem fees or charges;
- (e) the payment of fees and charges either generally or under specified conditions or in specified circumstances; and
- (f) the reduction, waiver or refund, in whole or in part, of such fees or charges.

(3) Where any reduction, waiver or refund, in whole or in part, of any fee or charge is provided for by subsidiary legislation, such reduction, waiver or refund may be expressed to apply or be applicable either generally or specifically -

- (a) in respect of certain matters or transactions or classes of matter or transaction;
- (b) in respect of certain documents or classes of document;
- (c) when any event happens or ceases to happen;
- (d) in respect of certain persons or classes of person; or
- (e) in respect of any combination of such matters, transactions, documents, events, or persons,

and may be expressed to apply or to be applicable subject to such conditions as may be specified in the subsidiary legislation or in the discretion of any person specified in the subsidiary legislation.

(4) Subject to section 3(3), this section applies to subsidiary legislation made under a power conferred by an enactment passed after the commencement of this Act.

**Reference to written law
to include subsidiary legislation.**

43. (1) A reference in a written law to a written law shall be construed so as to include a reference to any subsidiary legislation made under that written law .

(2) A reference in a written law to an Imperial Act shall be construed so as to include a reference to any subsidiary legislation made under that Act.

Acts under subsidiary legislation deemed done under Act.

44. Any act done under subsidiary legislation shall be deemed to be done under the written law under which the subsidiary legislation was made.

PART VII - STATUTORY POWERS AND DUTIES

Time for exercise of power or performance of duty.

45. Where a written law confers a power or imposes a duty, the power may be exercised and the duty shall be performed from time to time as occasion requires.

Reference to holder of office includes successors.

46. Where a written law confers a power or imposes a duty on the holder of a public office as such, the power may be exercised and the duty shall be performed by the person for the time being lawfully holding, acting in, or performing the functions of the office.

Construction of enabling words.

47. (1) Where a written law confers upon a person power to do or enforce the doing of any act or thing, all such powers shall also be deemed to be conferred on the person as are reasonably necessary to enable him to do or to enforce the doing of the act or thing.

(2) Without prejudice to the generality of subsection (1), where a written law confers power -

- (a) to provide for, prohibit, control or regulate any matter, such power includes power to provide for the same by the licensing or registration thereof or the granting of permits and power to

prohibit acts whereby the prohibition, control, or regulation of such matter might be evaded;

- (b) to grant a licence, registration, lease, right, permit, authority, approval, or exemption, such power includes power to impose reasonable conditions subject to which such licence, registration, lease, right, permit, authority, approval or exemption may be granted;
- (c) to approve any person, matter, or thing, such power includes power to withdraw approval thereof;
- (d) to give directions, such power includes power to express the same in the form of prohibitions.

(3) Subject to section 3(3), this section applies to written laws passed or made after the commencement of this Act.

**Power to issue licences etc.
discretionary.**

48. (1) Where a written law confers power upon a person to issue, grant, give or renew any licence, registration, lease, right, authority, approval, permit, or exemption, the person so empowered shall have a discretion either to issue, grant, give or renew or to refuse to issue, grant, give or renew such licence, registration, lease, right, authority, approval, permit, or exemption.

(2) Nothing in this section shall affect any right which may be conferred by any written law upon a person to appeal against a refusal to issue, grant, give or renew any licence, registration, lease, right, authority, approval, permit, or exemption.

**Power to appoint includes
power to suspend, dismiss, etc.**

49. (1) Where a written law confers a power or imposes a duty upon a person to make an appointment to an office or position, including an acting appointment, the person having such power or duty shall also have the power -

- (a) to remove or suspend a person so appointed to an office or position, and to re-appoint or reinstate, any person appointed in exercise of such power or duty;
- (b) where a person so appointed to an office or position is suspended or unable, or expected to become unable, for any other cause to perform the functions of such office or position, to appoint a person to act temporarily in place of the person so appointed during the period of suspension or inability, but a person shall not be appointed to so act temporarily unless he is eligible and qualified to be appointed to the office or position; and
- (c) to specify the period for which any person appointed in exercise of such a power or duty shall hold his appointment.

(2) For the purposes of subsection (1)(b), "cause" includes -

- (a) illness;
- (b) temporary absence from the State; and
- (c) conflict of interest.

(3) The validity of anything done by a person purporting to act under an appointment made under subsection (1)(b) shall not be called in question on the ground that the occasion for his appointment had not arisen or had ceased.

(4) Where a written law confers a power or imposes a duty upon a person to make an appointment to an office or position and that power or duty is exercisable only upon the nomination or recommendation, or is subject to the approval, concurrence, or consent of some other person, then the powers conferred by paragraphs (a) to (c) of subsection (1) shall only be exercisable upon such nomination or recommendation or subject to such approval, concurrence, or consent.

(5) Nothing in this section affects the tenure of office or position of any person under the express provisions of any written law.

Appointments by name or office.

50. Where a written law confers a power or imposes a duty upon a person to appoint or designate a person to -

- (a) perform any function;
- (b) be a member of any board, tribunal, commission, committee, council, or other similar body, whether corporate or unincorporate; or
- (c) be or do any other thing,

that person may make the appointment or designation either by appointing or designating a person by name or by appointing or designating the holder of an office by the term designating his office; and any such appointment or designation of the holder of an office shall be construed as the appointment or designation of the person from time to time holding, acting in, or lawfully performing the functions of the office.

Power of majority, quorum, etc.

51. (1) Where a written law confers or imposes a function upon a body or number of persons consisting of not fewer than 3 persons, the function may be performed by a majority of those persons.

(2) Where a written law establishes a board, commission, committee, council or other similar body consisting of 3 or more members (in this section called an "association"), -

- (a) at a meeting of the association, a number of members of the association equal to -
 - (i) at least one-half of the number of members provided for by the written law, if that number is a fixed number; and
 - (ii) if the number of members provided for by the written law is not a fixed number but is within a range having a maximum or minimum, at least one-half

of the number of members in office if that number is within the range, constitutes a quorum; and

- (b) an act or thing done by a majority of the members of the association present at a meeting, if the members present constitute a quorum, shall be deemed to have been done by the association.

Exercise of power may be corrected.

52. Where a written law confers a power or imposes a duty upon a person to do any act or thing of an administrative or executive character or to make any appointment, the power or duty may be exercised or performed as often as is necessary to correct any error or omission in any previous purported exercise or performance of the power or duty, notwithstanding that the power or duty is not in general capable of being exercised or performed from time to time.

**"May" imports a discretion,
"shall" is imperative.**

53. (1) Where in a written law the word "may" is used in conferring a power, such word shall be interpreted to imply that the power so conferred may be exercised or not, at discretion.

(2) Where in a written law the word "shall" is used in conferring a function, such word shall be interpreted to mean that the function so conferred must be performed.

**Power of board etc. not affected
by vacancy or certain defects.**

54. Where a board, tribunal, commission, committee, council or other similar body, whether corporate or unincorporate, is established under a written law, the powers of such a body shall not be affected by -

- (a) any vacancy in the membership of the body;

- (b) any defect afterwards discovered in the appointment or qualification of a person purporting to be a member of the body or the deputy of a member;
- (c) a minor irregularity in the convening or conduct of a meeting of the body; or
- (d) the presence or participation at a meeting of a person not entitled to be present or participate.

Exercise of certain powers by delegate.

55. Where under a written law the performance of a function by a person is dependent upon the opinion, belief, or state of mind of that person in relation to a matter and that function has been delegated under a written law, the function may be performed by the delegate upon the opinion, belief, or state of mind of the delegate in relation to that matter.

Construction of power to delegate.

56. (1) Where a written law confers power upon a person to delegate the exercise of any power or the performance of any duty conferred or imposed upon him under a written law -

- (a) such a delegation shall not preclude a person so delegating from exercising or performing at any time a power or duty so delegated;
- (b) such a delegation may be made subject to such conditions, qualifications, limitations or exceptions as the person so delegating may specify;
- (c) if the delegation may be made only with the approval of some person, such delegation, and any amendment of the delegation, may be made subject to such conditions, qualifications, limitations or exceptions as the person whose approval is required may specify;
- (d) such a delegation may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the

time being of a specified office or class of offices;

(e) such a delegation may be amended or revoked by instrument in writing signed by the person so delegating;

(f) in the case of a power conferred upon a person by reference to the term designating an office, such a delegation shall not cease to have effect by reason only of a change in the person lawfully holding, acting in or performing the functions of that office.

(2) The delegation of a power shall be deemed to include the delegation of any duty incidental thereto or connected therewith and the delegation of a duty shall be deemed to include the delegation of any power incidental thereto or connected therewith.

(3) Where under a written law an act or thing may, or is required to be, done to, by reference to or in relation to, a person and that person has under a written law delegated a relevant function conferred or imposed on him with respect to or in consequence of the doing of that act or thing, the act or thing shall be regarded as effectually done if done to, by reference to or in relation to the person to whom the said function has been delegated.

Governor-General to act with advice of Executive Council.

57. Where in a written law the Governor-General is authorized or required to do any act, matter, or thing, it shall be taken to mean that such act, matter, or thing may or shall be done by the Governor-General with the advice and consent of the Executive Council.

PART VIII - PROVISIONS REGARDING TIME AND DISTANCE

Computation of time.

58. (1) In computing time for the purposes of a written law -

- (a) where a period of time is expressed to begin at, on, or with a specified day, that day shall be included in the period;
- (b) where a period of time is expressed to be reckoned from, or after, a specified day, that day shall not be included in the period;
- (c) where anything is to be done within a time before a specified day, the time shall not include that day;
- (d) where a period of time is expressed to end at, on, or with a specified day or to continue to or until a specified day, that day shall be included in the period;
- (e) where the time limited for the doing of a thing expires or falls upon an excluded day, the thing may be done on the next day that is not an excluded day;
- (f) where there is a reference to a number of clear days or "at least" or "not less than" a number of days between two events, in calculating the number of days there shall be excluded the days on which the events happen;
- (g) where there is a reference to a number of days not expressed to be clear days or "at least" or "not less than" a number of days between two events, in calculating the number of days there shall be excluded the day on which the first event happens and there shall be included the day on which the second event happens;
- (h) where an act or proceeding is directed or allowed to be done or taken on a certain day, or on or before a certain day, then, if that day is 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 that is not an excluded day.

(2) For the purposes of this section, "excluded day" means Saturday, Sunday and a bank holiday or public holiday throughout _____ or in that part of _____ which is relevant to the event, act, thing or proceeding concerned.

Reckoning of months.

59. (1) In a written law, "month" means a calendar month, that is to say, a month reckoned according to the calendar.

(2) If a period of one month indicated in a written law begins on any date other than the first day of any of the 12 months of the calendar, it shall be reckoned from the date on which it is to begin to the date in the next month numerically corresponding, less one, or, if there is no corresponding date, to the last day of that month.

For example: a month beginning on 15 January ends on 14 February and a month beginning on 30 or 31 January ends on 28 February (or 29 February in a leap year).

(3) If a period indicated in a written law is of 2, 3 or more months, it shall be reckoned from the date on which it is to begin to the date numerically corresponding, less one, in the second, third, or other successive month thereafter or, if there is no such corresponding date, to the last day of the latter month.

For example: a period of 6 months beginning on 15 August ends on 14 February and a period of 6 months beginning on 30 or 31 August ends on 28 February (or 29 February in a leap year).

Provision where no time fixed.

60. Where no time is fixed or allowed within which an act or thing shall be done, such act or thing shall be done with all convenient speed and as often as due occasion arises.

Construction of power to extend time.

61. (1) Where in a written law a time is fixed or allowed for doing any act or thing or taking any proceeding and power is given to a court or other authority to extend that time, such

power may be exercised by the court or other authority although the application for an extension is not made until after the expiration of the time fixed or allowed.

(2) Subject to section 3(3), this section applies to written laws passed or made after the commencement of this Act.

Measurement of distance.

62. In the measurement of any distance for the purposes of a written law, the distance shall be measured in a straight line on a horizontal plane.

PART IX - PROCEDURE AND PENALTIES

Rules of Court.

63. (1) In a written law, "rules of court" 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.

(2) The power of an authority referred to in subsection (1) includes a power to make rules of court for the purpose of any written law which directs or authorizes anything to be done by or in accordance with rules of court.

Recovery of fines and penalties.

64. Where a fine or other penalty is recoverable under a written law and no means is provided in that law for the recovery of the fine or penalty, the written law shall be deemed to provide that such fine or penalty may be recovered summarily under the provisions of the Justices Act 1902, or any written law for the time being in force relating to summary proceedings of justices.

Double jeopardy.

65. Where an act constitutes 2 or more offences, whether under the same written law or otherwise, the offender is liable to

be prosecuted and punished for any or all such offences but is not liable to be punished twice for the same offence.

Application of penal laws to bodies corporate.

66. (1) Every enactment relating to an offence punishable on indictment or on summary conviction shall be taken to refer to bodies corporate as well as to individuals.

(2) Where under a written law, a forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate in every case where that body is the party aggrieved.

(3) Except where otherwise expressly provided, where the penalty prescribed in a written law in respect of an offence does not consist of or include a fine, the court before which the offence is tried may, in the case of a body corporate, impose a fine -

- (a) where a term of imprisonment not exceeding 6 months is prescribed - of \$3 500;
- (b) where a term of imprisonment exceeding 6 months but not exceeding one year is prescribed - of \$7 000;
- (c) where a term of imprisonment exceeding one year but not exceeding 2 years is prescribed - of \$15 000; and
- (d) where a term of imprisonment exceeding 2 years is prescribed - of \$50 000.

Prescription of maximum, minimum, daily and cumulative penalties.

67. (1) Where in a written law a penalty is specified in respect of an offence, that penalty is the maximum penalty that may be imposed for that offence.

(2) Where in a written law more than one penalty is specified in respect of an offence, the use of the word "and" between the respective penalties means that the penalties may be imposed alternatively or cumulatively.

(3) Where in a written law a maximum penalty and a minimum penalty are specified in respect of an offence, the offence is punishable by a penalty not less than that minimum nor greater than that maximum.

(4) Where in a written law a penalty specified in respect of an offence is referred to as being a daily penalty, that reference indicates that a penalty not exceeding that daily penalty may, in addition to any other penalty that may be imposed in respect of the offence, be imposed for each day or part of a day during which the offence continues.

Statement of penalty at end of provision.

68. (1) Where in an Act a penalty -

- (a) is specified without qualification at the foot of a section of the Act;
- (b) is specified at the foot of a subsection of a section of the Act, but not at the foot of the section; or
- (c) is specified at the foot of a section of the Act and expressed to apply to a specified subsection or specified subsections of the section,

then, unless the contrary is expressly provided, that specification indicates that a contravention of the section or subsection, or, as the case may be, any of the subsections, is an offence and that the offence is punishable on conviction by a penalty not exceeding that so specified.

(2) Subsection (1) applies to subsidiary legislation subject to necessary modification.

Continuing offences.

69. (1) Where -

- (a) by or under a written law an act or thing is required or directed to be done within a particular period or before a particular time; and

(b) failure to do that act or thing within the period or before the time referred to in paragraph (a) constitutes an offence; and
(c) that act or thing is not done within the period or before the time referred to in paragraph (a),
the following provisions have effect -

- (i) the obligation to do that act or thing continues, notwithstanding that that period has expired or that time has passed, until that act or thing is done;
- (ii) where a person is convicted of an offence that, by virtue of paragraph (i), is constituted by failure to do that act or thing after the expiration of that period or after that time, as the case may be, that person is guilty of a separate and further offence in respect of each day after the day of the conviction during which the failure to do that act or thing continues; and
- (iii) unless otherwise provided, the penalty applicable to each separate and further offence is \$50.

(2) Where-

- (a) by or under a written law an act or thing is required or directed to be done but no period within which or time by which that act or thing is to be done is specified; and
- (b) failure to do that act or thing constitutes an offence; and
- (c) a person is convicted of an offence in respect of a failure to do that act or thing,
that person is guilty of a separate and further offence in respect of each day after the day of the conviction during which the failure to do that act or thing continues and,

unless otherwise provided, the penalty applicable to each such separate and further offence is \$50.

(3) Charges against the same person for any number of offences under subsection (1)(ii) or subsection (2) may be joined in the same information or complaint if those offences relate to a failure to do the same act or thing.

(4) If a person is convicted of more than one offence under subsection (1)(ii) or more than one offence under subsection (2), the Court may impose one penalty in respect of all the offences of which the person is so convicted under the relevant subsection, but that penalty shall not exceed the sum of the maximum penalties that could be imposed if a penalty were imposed separately in respect of each offence.

PART X - MISCELLANEOUS PROVISIONS

Deviation in forms.

70. Where a form is prescribed or specified under a written law, deviations therefrom not materially affecting the substance nor likely to mislead shall not invalidate the form used.

Service of documents by post.

71. (1) Where a written law authorizes or requires a document to be served by post, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, service shall be deemed to be effected by properly addressing and posting (by pre-paid post) the document as a letter to the last-known address of the person to be served, and, unless the contrary is proved, to have been effected at the time when the letter would have been delivered in the ordinary course of post.

(2) Where a written law authorizes or requires a document to be served by registered post, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, then, if the document is eligible and acceptable for transmission as certified mail, the service of the document may be effected either by registered post or by certified mail.

(3) Subsections (1) and (2) apply unless the contrary intention appears and subsection (2) does not apply where a written law requires the production of an acknowledgement signed by a person to whom a document was addressed to the effect that the document was delivered to that person.

Service of documents generally.

72. Where a written law authorizes or requires a document to be served, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, without directing it to be served in a particular manner, service of that document may be effected on the person to be served -

- (a) by delivering the document to him personally; or
- (b) by post in accordance with section 71(1); or
- (c) by leaving it for him at his usual or last known place of abode, or if he is a principal of a business, at his usual or last known place of business; or
- (d) in the case of a corporation or of an association of persons (whether incorporated or not), by delivering or leaving the document or posting it as a letter, addressed in each case to the corporation or association, at its principal place of business or principal office in the State.

Repeal.

73. The Interpretation Act is repealed.

SCHEDULE 1

(section 12)

Commonwealth Countries

Australia
The Bahamas
Bangladesh
Barbados
Belize
Botswana
Canada
Cyprus
Fiji
The Gambia
Ghana
Grenada
Guyana
India
Jamaica
Kenya

Kibiriti
Lesotho
Malawi
Malaysia
Malta
Mauritius
Nauru
New Zealand
Nigeria
Papua New Guinea
Seychelles
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Solomon Islands
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Printed and published by
The Commonwealth Secretariat

May be purchased from
Commonwealth Secretariat Publications
Marlborough House
London SW1Y 5HX

ISBN 0 85092 236 4

