

LAWS OF THE WEST INDIES

CHAPTER 291

INTERPRETATION

CHAPTER 291

THE INTERPRETATION REGULATIONS, 1958.

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Regs.
1/1958.

REGULATIONS made by the Governor-General under section 2 of the West Indies (Federation) Order in Council, 1957.

Date of making 13th January, 1958
Commencement 31st January, 1958

SHORT TITLE AND APPLICATION

Short title.

1. These regulations may be cited as the Interpretation Regulations, 1958.

Application.

2. (1) As from the date of commencement of these Regulations the provisions of these Regulations shall apply in the interpretation and operation of every Act as defined in these Regulations (including these Regulations) now or hereafter in force in the Federation, except in so far as—

- (a) there is in that other Act any express provision to the contrary; or
- (b) any such provisions would give to any word, expression or provision of any such Act an interpretation inconsistent with the context; or
- (c) the contrary intention otherwise appears.

(2) Nothing in these Regulations shall exclude the application to any Act of any rule of construction applicable thereto and not inconsistent with these Regulations.

Crown not bound by Act unless expressly provided.

3. (1) No Act shall in any manner whatsoever affect the rights of the Crown, unless it is therein expressly provided or unless it appears by necessary implication that the Crown is bound thereby.

(2) These Regulations shall bind the Crown.

4. These Regulations shall apply to the Turks and Caicos Islands and the Cayman Islands.

Application to Turks & Caicos & Cayman Islands.

COMMENCEMENT OF ACTS

5. (1) In every Act the word "commencement", when used with reference to an Act, shall mean the time at which the Act comes into operation.

Commencement of Acts—general.

(2) Where an Act is expressed to come into operation on a particular day, it shall come into operation immediately on the expiration of the last preceding day.

6. (1) Every Act to which the Royal Assent has been given by the Governor-General for and on behalf of the Queen shall be deemed to have come into operation on the day on which that Act received the Royal Assent.

Commencement of Acts assented to by the Governor-General.

(2) Every Act reserved for the signification of the Queen's pleasure thereon shall come into operation on the day on which Her Majesty's Assent is proclaimed in the Gazette by the Governor-General.

Commencement of Acts reserved.

7. When an Act is not to come into operation immediately on the passing thereof, and confers power to make, give or issue any statutory instrument, or to do any other thing for the purposes of the Act, that power may be exercised at any time after the passing of the Act for the purpose of bringing the Act into operation at the commencement thereof:

Exercise of statutory powers between passing and commencement of Act.

Provided that any statutory instrument made, given or issued or any thing done under the power shall not, unless the contrary intention appears in the Act or the contrary is necessary for bringing the Act into operation, come into operation until the Act comes into operation.

NUMBERING, PUBLICATION AND CITATION

8. The Acts passed in each secular year shall be numbered in regular arithmetic series, beginning with the number one, in the order in which the Governor-General assents thereto, or makes known the Queen's Assent thereto.

Numbering of Acts.

9. Every Act and every proclamation made in pursuance of any Act, Imperial Act or law of the legislature of any Territory shall be published in or with the Gazette.

Publication of Acts and proclamations.

Citation
of laws.

10. (1) In any Act—

- (a) any Act may be cited by its short title, or by reference to the secular year in which it was passed and its number; and
- (b) any Imperial Act may be cited by its short title (if any) or by reference to the regnal year in which it was passed and its chapter; and
- (c) any law of the legislature of a Territory may be cited by a reference to the Territory by the legislature whereof the law was passed, together with such mode of reference as is sufficient in laws passed by such legislature.

(2) In any Act, an enactment (including an Imperial enactment) may be cited by reference to the part, section, subsection, or other division of the law, in which the enactment is contained.

(3) Every such reference shall be made according to the copy of such Act or law purporting to be printed by the Government Printer of the Federation by authority or by the Government Printer or other authorised printer of a Territory, or by the Queen's Printer or under the superintendence or authority of Her Majesty's Stationery Office in London as the case may be.

(4) In any Act a description or citation of a portion of another enactment or Imperial Act shall be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

REPEAL AND EXPIRATION OF ACTS

Repeal of a
repealing
Act.

11. Where the effect of an Act is the repeal of another enactment by which a previous enactment was repealed, it shall not have the effect of reviving such last mentioned enactment without express words.

Effect of
repeal-
general.

12. Where an Act repeals in whole or in part a former enactment the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect;

- (b) affect the previous operation of any enactment so repealed, or anything duly done or suffered under any enactment so repealed; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

13. Where an Act repeals in whole or in part a former enactment and substitutes provisions in lieu thereof, the repealed provisions shall remain in force until the substituted provisions come into operation.

Repealed provisions in force until substituted provisions operate.

14. Where an Act repeals and re-enacts with or without modification any provisions of a former enactment, references in any other Act to the provisions so repealed shall be construed as references to the provisions so re-enacted.

References to repealed and re-enacted provisions.

15. Where in any Act reference is made to any other enactment, and that other enactment is subsequently amended, the reference shall, from the date of the amendment, be deemed to be to that enactment as so amended.

References to amended Acts.

16. The expiration of an Act shall not affect any civil or criminal proceeding previously commenced under such Act, but every such proceeding may be continued and everything in relation thereto be done in all respects as if the Act continued in force.

Civil or criminal proceedings not affected by expiry of Act.

17. Where an enactment is repealed by an Act and other provisions are substituted by the repealing Act for the provisions of the enactment so repealed, then any statutory

Effect of repealing Act on statutory instruments.

instrument made, given or issued under or in pursuance of the enactment so repealed, and in force immediately prior to such repeal, shall, remain in force, to the extent that it is not inconsistent with the provisions of the repealing Act, and until such time as the statutory instrument is revoked, rescinded, cancelled, expires or otherwise ceases to have effect.

GENERAL RULES OF CONSTRUCTION

Every section a substantive enactment.

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

Headings, schedules, marginal notes and footnotes.

19. (1) The headings of the parts, divisions and subdivisions into which any Act is divided shall be deemed to be part of the Act.

(2) Every schedule, table or other annexure to an Act shall be deemed to form part thereof.

(3) Neither the marginal notes nor the footnotes to any Act shall be deemed to be part thereof.

Amending to be construed with amended Act.

20. Every Act amending another Act shall be construed with such other Act and as part thereof.

Acts to be construed subject to Constitution.

21. Every Act shall be read and construed subject to the Constitution, and so as not to exceed the legislative competence of the Federation, to the intent that where any enactment thereof would, but for this regulation, have been construed as being in excess of that competence, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that competence.

Acts may be altered, etc., in same session.

22. An Act may be altered, amended or repealed in the same session of the Federal Legislature in which it was passed.

Imperial laws to be read with necessary modifications.

23. (1) Any Imperial Act which is expressed to have effect, or whose provisions are otherwise applied, in respect of the Federation in relation to any matter within the legislative competence of the Federation, and any statutory instrument made, given or issued thereunder and expressed

to have such effect on application, shall be read with such formal alterations as to names, localities, courts, officers, persons, monies, punishments and otherwise as may be necessary to make the Imperial Act or statutory instrument as aforesaid applicable to the circumstances of the Federation.

(2) Where in any Act reference is made to any provision of an Imperial Act and that provision is subsequently repealed and re-enacted without substantial modification, the reference in such Act to the provision of the Imperial Act so repealed shall be construed as a reference to the provision so re-enacted.

Reference in Act to repealed and re-enacted provision of Imperial Act.

WORDS AND REFERENCES IN ACTS

24. (1) In any Act references to the Sovereign reigning at the time of the passing of such Act, or to the Crown, shall be construed as references to the Sovereign for the time being.

References to the Sovereign.

(2) In any Act the expression "Her Majesty" or "the Queen" includes Her Majesty the Queen, Her Heirs and Successors.

25. (1) In any Act—

Definitions.

- (i) "Act" means an Act passed by the Federal Legislature and includes any regulations made by the Governor-General under section two of the West Indies (Federation) Order in Council, 1957.
- (ii) "act" in relation to an offence or civil wrong includes—
 - (i) a series of acts;
 - (ii) an omission or series of omissions;
- (iii) "chamber of the Legislature" means the Senate or the House of Representatives;
- (iv) "Christian name" means any name prefixed to a surname whether received at Christian baptism or not;

- (v) "committed for trial" used in relation to any person means committed to prison with a view of being tried before a judge and jury, or admitted to bail upon a recognisance to appear and be so tried;
- (vi) "common law" means the common law of England;
- (vii) "Commonwealth" means collectively the United Kingdom, any part of Her Majesty's dominions, India, Pakistan, the Federation of Malaya, any territory under Her Majesty's protection, any territory administered by the Government of any part of Her Majesty's dominions under the trusteeship system of the United Nations, South West Africa and the New Hebrides;
- (viii) "Constitution" means the Constitution of The West Indies and includes any amendments thereto;
- (ix) "consular officer" includes consul-general, consul, vice-consul, consular agent and any person for the time being authorised to discharge the duties of consul-general, consul or vice-consul;
- (x) "Council of State" means the Council of State provided for in article 59 of the Constitution;
- (xi) "court of summary jurisdiction" shall—
 - (a) in relation to a Territory other than Antigua, Saint Christopher Nevis and Anguilla, and Montserrat, have the same meaning as is assigned to the expression under the law in operation in that Territory;

- (b) in relation to any of the Territories of Antigua, Saint Christopher Nevis and Anguilla, and Montserrat, have the same meaning as is assigned to the expression "inferior court of summary jurisdiction" under the law of the legislature of that Territory;
- (xii) "Crown Agents" means the persons for the time being acting in the United Kingdom as the Crown Agents for Oversea Governments and Administrations, or any of them;
- (xiii) "enactment" means—
- (a) any Act, or any law of the Legislature of a Territory and includes any subsidiary legislation made thereunder;
- (b) any provision of any such Act, law or subsidiary legislation;
- (xiv) "estate" includes any estate or interest, charge, right, title, claim, demand, lien or incumbrance at law or in equity;
- (xv) "Executive Council" shall have the meaning assigned to it in article 116 of the Constitution;
- (xvi) "federal court" means the Supreme Court or any court established by the Federal Legislature;
- (xvii) "Federal Legislature" means the Federal Legislature as provided for by the Constitution;
- (xviii) "Federation" means—
- (a) the Federation of The West Indies established by the West Indies (Federation) Order in Council 1957;

- (b) the areas included within the external boundaries of the Territories;
- and the word "federal" shall be construed accordingly;
- (xix) "financial year" means as respects any matters relating to the revenues of the Federation or monies provided by the Federal Legislature or to federal taxes or finance, the twelve months ending on the 31st day of December;
- (xx) "the Gazette" means the Federal Gazette published by authority as the official gazette of The West Indies and includes any supplement to the Gazette and any matter referred to in the Gazette as being published with the Gazette;
- (xxi) "Government Printer" includes any person purporting to be authorised to print the Gazette or any federal enactment;
- (xxii) "Governor - General" means the Governor-General of the Federation or any person for the time being performing the functions of the Governor-General under article 3 of the Constitution or, to the extent to which he is authorised to act, under article 4 of the Constitution, as the case may be;
- (xxiii) "indictment" includes information;
- (xxiv) "justice of the peace" includes a justice of the peace for a Territory or part of a Territory;
- (xxv) "land" includes messuages, tenements and hereditaments, corporeal and incorporeal, of any tenure or description, and whatever may be the estate or interest therein, and shall also include land covered by water;
- (xxvi) "local authority" means a municipal council, a municipal board, a town

- management board, a town council, a village council, or a village management board or other similar body constituted by or under an enactment;
- (xxvii) "Minister" means a Minister provided for in Chapter II of the Constitution and includes the Prime Minister;
- (xxviii) "the Minister" shall mean the Minister for the time being administering the Act or enactment in which or in respect of which the expression is used;
- (xxix) "month" means calendar month;
- (xxx) "oath" and "affidavit" in the case of persons allowed by law to affirm, declare or promise instead of swearing include affirmation, declaration and promise, and the word "swear" shall in the like case include affirm, declare and promise;
- (xxxi) "person" and "party" include—
- (a) any company incorporated or registered as such under any law in operation in the Federation;
 - (b) any body of persons corporate or unincorporate; or
 - (c) any local or other like authority;
- (xxxii) "prescribed" means prescribed by the Act in which the word occurs, or by statutory instrument made under the Act;
- (xxxiii) "proclamation" means proclamation by the Governor-General;
- (xxxiv) "public authority" means any person required or authorised to discharge any public function under any enactment or under any Imperial Act which is expressed to have effect or whose provisions are otherwise applied, in respect of the Federation;
- (xxxv) "public holiday" means in relation to a Territory, a bank holiday or public

- holiday as defined by any law in force in such Territory and any day set apart or notified as a public holiday or bank holiday by or under any such law;
- (xxxvi) "public seal" means the public seal of the Federation;
- (xxxvii) "Secretary of State" means one of Her Majesty's principal Secretaries of State in the United Kingdom;
- (xxxviii) "sell" with its grammatical variations and cognate expressions, includes exchange and barter;
- (xxxix) "session" in relation to a chamber of the Legislature, shall have the meaning assigned to it in article 116 of the Constitution;
- (xl) "sitting" in relation to a chamber of the Legislature, shall have the meaning assigned to it in article 116 of the Constitution;
- (xli) "sign" with its grammatical variations and cognate expressions, with reference to a person who is unable to write his name, includes "mark" with its grammatical variations and cognate expressions;
- (xlii) "statutory declaration" means a declaration made by virtue of any enactment or Imperial Act authorising a sworn declaration to be made otherwise than in the course of a judicial proceeding;
- (xliii) "statutory instrument" means any regulation, rule, rule of court, bye-law, proclamation, order, instruction, direction, appointment, warrant, licence, permit, notice or other instrument made, given or issued in the Federation under the authority of any federal law;
- (xliv) "subsidiary legislation" means any regulation, rule, bye-law, order, scheme, or other instrument made under any

Act, or under any such aforesaid instrument, and having legislative effect, but does not include a proclamation;

- (xlv) "summary conviction" means, in relation to any offence under an Act, that a person charged with that offence shall be triable in respect of the offence by a court of summary jurisdiction;
- (xlvi) "Supreme Court" means the Federal Supreme Court established under Article 73 of the Constitution;
- (xlvii) "Territory" means any of the following territories, that is to say—
 - (a) the Colony of Jamaica, including its dependencies but not including the Cayman Islands and the Turks and Caicos Islands;
 - (b) each of the other Colonies referred to in paragraph (1) of article 1 of the Constitution, including its dependencies, if any;
 - (c) the Cayman Islands; and
 - (d) the Turks and Caicos Islands;
 Provided that any reference to the Legislature of a Territory includes, in relation to the Cayman Islands or the Turks and Caicos Islands, as the case may be, a reference to the Legislature of Jamaica as well as to the Legislatures of those Islands;
- (xlviii) "the United Kingdom" means the United Kingdom of Great Britain and Northern Ireland;
- (xlix) "will" includes codicil.

(2) Where in any Act an expression is used describing a person, matter or thing in relation to a Territory and no meaning has been assigned to such expression by this or any other federal law, the expression shall be construed according to the laws of that Territory.

Rules as to
gender and
number.

26. In any Act—

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

References
to "writing"
and
"words".

27. (1) In any Act, expressions referring to writing shall, be construed as including references to printing, lithography, typewriting, photography and any other mode of representing or reproducing words in a visible form.

(2) In any Act, the expression "words" includes figures, punctuation marks, and typographical, monetary and mathematical symbols.

Meaning of
service by
post.

28. Where an Act authorises or requires any document to be served by post, whether the expression "serve" or the expression "give" or "send" or any other expression is used the service shall be deemed to be effected by properly addressing, prepaying and posting the document as a letter, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Reference
to Minister.

29. Where in any Act any Minister is referred to, such reference shall be deemed to include any Minister for the time being acting for or on behalf of such Minister.

Administra-
tion of
Acts.

30. Where in any Act it is provided that the Act shall be administered by a specified Minister, or shall be administered, controlled or carried into effect by a specified federal government department—

- (a) the reference to that Minister shall be read as a reference to any Minister to whom the administration of the Act is from time to time assigned by instrument under the hand of the Governor-General and shall be deemed to include any Minister for the time being acting for and on behalf of the Minister to whom the administration of the Act is so assigned; and
- (b) the reference to that department shall be read as a reference to any department to which the administration of the Act is from time to time assigned by any instrument.

31. Where in any Act, reference is made to a specified Minister or a specified federal government department, and there is no longer any such Minister of department—

References to abolished ministries and departments.

- (a) the reference to the Minister shall be read as a reference to such Minister as is specified by order of the Governor-General, and shall be deemed to include any Minister for the time being acting for and on behalf of the Minister so specified in the order; and
- (b) the reference to the department shall be read as a reference to such department as is specified by order of the Governor-General.

32. Where an agreement is or has been entered into, either before or after the commencement of this regulation, by or on behalf of the Federation and, after the date of the agreement, the functions of a federal government department in relation to the administration of matters to which the agreement relates (in this regulation referred to as "the former department") are or have been allotted to another department (in this regulation referred to as "the new department")—

References in agreements to a department, Minister, officer or body.

- (a) any reference in the agreement to the Minister administering the former department shall be read as a reference to the Minister administering the new department or any Minister acting for the time being for him and on his behalf;
- (b) any reference in the agreement to the former department shall be read as a reference to the new department; and
- (c) any reference in the agreement to an officer or body of persons shall be read as a reference to—
 - (i) any other officer or body for the time being exercising the powers or performing the functions of the first mentioned officer or body; or
 - (ii) such other officer or body as the Minister administering the new department or any Minister acting for him or on his behalf, by notice, specifies.

Reference to officer by designation of office or position. 33. Where in an Act any person holding or occupying a particular office or position is mentioned or referred to by the designation of his office or position such mention or reference shall be deemed to include any person who under and to the extent of any authority to act therein, is for the time being performing the functions of that office or position.

References to officers, localities, etc., mean of the Federation.

34. In any Act—

- (a) references to any officer or office shall be construed as references to such officer or office in and for the Federation; and
- (b) references to localities, jurisdictions and other matters and things shall be construed as references to such localities, jurisdictions and other matters and things in and of the Federation.

Rules of court.

35. (1) In any Act, the expression “rules of court” when used in relation to any court shall mean 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 such authority to make rules of court shall include a power to make rules of court for the purpose of any Act which directs or authorises anything to be done by rules of court.

DISTANCE AND TIME

Measurement of distance.

36. In the measurement of any distance for the purposes of any Act, that distance shall be measured in a straight line on a horizontal plane.

References to territorial waters.

37. In any Act a reference to the “waters of the Federation” or to “territorial waters” (used in relation to the Federation) shall include a reference to the territorial waters of each Territory.

Reckoning of time.

38. Where by or under any Act—

- (a) any period of time, dating from a given day, act, or event, is prescribed or allowed for any purpose, the time shall be reckoned exclusive of such day, or of the day of such act or event;
- (b) the last day of any such period falls on a Sunday or on a day which is a public holiday (which days are hereinafter in this regulation referred to as “excluded days”), the period shall, in the Territory in which the last day

is an excluded day, include the next following day which is not an excluded day in that Territory;

- (c) anything is required or authorised to be done on a certain day, then, if that day is an excluded day, the thing shall be deemed to have been done in due time in a Territory in which that day is an excluded day if it is done on the next following day which is not an excluded day in that Territory;
- (d) anything is required or authorised to be done within any period not exceeding six days, then an excluded day falling within such period shall not in a Territory in which such day is an excluded day be reckoned in computing the passage of time.

39. Where by or under any Act any thing is required to be done and no time is specified, required, prescribed or allowed within which the thing shall be done, such thing shall be done with all convenient speed and as often as the prescribed occasion arises. Provision where no time prescribed.

40. Where in any Act any reference to time occurs, such time shall, unless it is otherwise specifically stated, be deemed in each Territory or part of the Federation to mean the standard legal time in that Territory or part of the Federation. Standard legal time.

POWERS CONFERRED AND DUTIES IMPOSED BY ACTS

41. (1) Where an Act 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. Exercise of powers and duties.

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

42. (1) Where an Act confers a power to make subsidiary legislation the power shall be construed as including a power exercisable in like manner and subject to the like conditions (if any) to rescind, revoke, amend, or vary any such subsidiary legislation. Power to make includes power to rescind, etc.

Special powers not to derogate from general powers.

(2) Where an Act confers upon any person or authority a power to make, give or issue any statutory instrument for any general purpose and also for any special purposes, the enumeration of the special purposes shall not be deemed to derogate from the generality of the power conferred with respect to the general purpose.

Power to appoint includes power to remove.

43. (1) Where an Act confers upon any person or authority a power to make appointments to any office or place, the power shall be construed as including a power to remove or suspend any person appointed, and to appoint another person temporarily in the place of any person so suspended or in place of any ill or absent holder of such office or place:

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

(2) Where an Act confers a power or imposes a duty upon a public officer, the Governor-General may direct that if during any period owing to absence or inability to act from illness or any other cause the public officer shall be unable to exercise the powers or perform the duties in any place under his jurisdiction or control, those powers shall be had and may be exercised and those duties shall be performed in that place by a person named by the Governor-General or by the public officer holding the office designated by the Governor-General, and thereupon that person or public officer, during any such period as aforesaid, shall have and may exercise the powers and shall perform the duties aforesaid, subject to such conditions, exceptions and qualifications as the Governor-General may direct.

Statutory boards—power to appoint alternate members.

44. (1) Where an Act confers upon any person or authority the power to appoint persons as members of any board, committee, council, commission, tribunal or other similar body, (in this and the next succeeding regulation referred to as a statutory board) such power shall include the power to appoint persons as alternate members of such statutory board:

Provided that where any person has under the powers conferred by this regulation been appointed an alternate member of any such statutory board, such person shall—

- (a) act as a member only when the member to whom he is alternate is by reason of illness; absence from the Federation or from the Territory in which his presence would be necessary for the performance of his duties, or by reason of other like cause, unable to perform his duties as a member;
- (b) when acting as a member, have all the powers of the member to whom he is alternate.

(2) Where an Act confers upon any person or authority, power to appoint any statutory board, such power shall include the power to appoint a chairman of such statutory board. Power to appoint chairman.

(3) Where by any Act any statutory board is established, then, subject to any provisions regarding a quorum, the powers of such statutory board, shall not be affected by any vacancy in the membership thereof. Powers of board not affected by vacancy.

45. Where an Act confers upon any person or authority the power to appoint or name a person to be a member of any statutory board, or to have and exercise any powers or perform any duties, such first mentioned person or authority may either appoint a person by name or direct the person for the time being holding the office designated by such first mentioned person or authority, to be a member of such statutory board, or to have and exercise those powers and perform those duties; and thereupon, or from the date specified by such first mentioned person or authority, the person appointed by name or the person holding office as aforesaid shall be a member of such statutory board, or shall have and may exercise those powers and perform those duties accordingly. Power to appoint by name or by office.

46. (1) Where an Act confers upon any person or authority power to do or enforce the doing of any act or thing, all such powers shall be understood to be also conferred as are reasonably necessary to enable the person to do or enforce the doing of the act or thing. Necessary incidental powers.

(2) Without prejudice to the generality of the preceding paragraph of this regulation— Special powers.

- (a) a power to provide for or prohibit or to control or to regulate any matter includes power to provide for the same by the licensing

thereof and power to prohibit acts whereby the prohibitions, control or regulations affecting such matter might be evaded;

- (b) a power to grant a licence, permit, authority, approval or exemption includes power to impose reasonable conditions (including the charging of a fee payable to the public funds of the Federation) subject to which such licence, permit, authority, approval or exemption may be granted.

Power to determine includes power to administer oath.

47. Any court, judge, justice of the peace, officer, commissioner, arbitrator, or other person authorised by or under an Act, to hear and determine any matter, shall have authority to receive evidence and examine witnesses and to administer an oath to all witnesses legally called before them respectively.

Delegation of powers.

48. (1) Where by any Act the Governor-General is empowered to exercise any powers or perform any duties, he may depute any person by name or the person for the time being holding the office designated by him, to exercise those powers or perform those duties on his behalf, subject to such conditions, exceptions and qualifications as the Governor-General may prescribe, and thereupon or from the date specified by the Governor-General the person so deputed shall have and exercise those powers and perform those duties subject as aforesaid:

Provided that nothing herein contained shall authorise the Governor-General to depute any person to hear any appeal or make subsidiary legislation under the power in that behalf conferred upon him by any Act.

(2) Where an Act confers upon any person or authority the power to delegate the exercise of any of the powers or the performance of any of the duties vested in or imposed on him, no delegation made thereunder shall preclude such person or authority from exercising or performing at any time any of the powers or duties so delegated.

Exercise of certain powers and functions by a delegate.

49. Where, under any Act, the exercise of a power or function by a person is dependent upon the opinion, belief or state of mind of that person in relation to a matter and that power or function has been delegated in pursuance of any power in that behalf, the power or function may be exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter.

50. Where by an Act any act or thing is authorised or required to be done by more than two persons, a majority of them may do it. Power of majority.

OFFENCES AND PENALTIES

51. Where in any Act a punishment is provided for an offence against the Act, such provision shall indicate that the offence shall be punishable by a punishment not exceeding that provided. Prescribed penalties to be maximum penalties.

52. The punishment set out—

- (a) at the foot of any section of any Act; or
- (b) at the foot of any subsection of any section of any Act, but not at the foot of the section,

shall indicate that any contravention of the section or of the subsection respectively, whether by act or omission, shall be an offence against the Act, punishable upon conviction by a punishment not exceeding that mentioned: Punishment at foot of sections or subsections.

Provided that where the punishment is expressed to apply to a part only of the section or sub-section, it shall apply to that part only.

53. Where an Act confers power to make subsidiary legislation then any offence under the subsidiary legislation shall be punishable on summary conviction. Offences against subsidiary legislation punishable summarily.

54. (1) Every provision of an Act relating to offences punishable on indictment or summary conviction shall be deemed to refer to bodies corporate as well as to persons but where the punishment prescribed in respect of any offence is a term of imprisonment only the court before which the offence is tried may, if it thinks fit, in the case of a body corporate, impose a fine not exceeding— Corporations liable to and may sue for penalties.

- (a) where the prescribed term of imprisonment does not exceed six months—Five hundred dollars;
- (b) where the prescribed term of imprisonment exceeds six months but does not exceed one year—One thousand dollars;
- (c) where the prescribed term of imprisonment exceeds one year but does not exceed two years—Two thousand five hundred dollars;
- (d) where the prescribed term of imprisonment exceeds two years—Five thousand dollars.

(2) Where under any Act any forfeiture or penalty is payable to a party aggrieved it shall be payable to a body corporate where the body corporate is the party aggrieved.

Subsidiary legislation may create offences.

55. Where an Act confers power to make subsidiary legislation there may be annexed to the breach of such subsidiary legislation a punishment of a fine not exceeding one hundred and fifty dollars or of imprisonment for a term not exceeding three months, or both such fine and imprisonment, and such subsidiary legislation may provide that a term of imprisonment not exceeding three months may be imposed in default of the payment of any such fine.

Attempts punishable as if offence committed.

56. Any provision of an Act which constitutes an offence shall be deemed to provide also that an attempt to commit such an offence shall be an offence against such provision, punishable as if the offence itself had been committed.

Imprisonment.

57. Where under any Act imprisonment may be awarded for any offence, it may be awarded with or without hard labour.

Offences under two or more laws.

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

Imposition of penalty not a bar to civil action.

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

Disposal of forfeits.

60. (1) Where under any Act any animal or thing is or is ordered by any competent authority to be confiscated or forfeited, it shall be deemed to be forfeited to the Crown for the purposes of the Federation.

(2) Where under any Act any animal or thing ordered or deemed to be forfeited to the Crown is required to be sold the net proceeds of any such sale shall be paid into and shall form part of the public funds of the Federation.

(3) Nothing in this regulation shall be construed as derogating from or abridging any provision of any Act under which any fine, penalty or forfeit or part thereof, or the proceeds of any forfeit or part thereof, is recoverable by any person or may be granted by a court or public authority to any person.

61. Subject to the express provisions of any Act, where any fine or pecuniary penalty is imposed by or under the Authority of an Act, every such fine or penalty shall be payable into the public funds of the Federation.

Pecuniary penalties payable into public funds.

STATUTORY INSTRUMENTS AND RESOLUTIONS

62. Notwithstanding that any statutory instrument is expressed or purports to be made, given or issued by a person or authority under a specific provision of an Act, it shall be deemed also to be made, given or issued by that person or authority under all powers thereunto enabling that person or authority.

Enabling power to make statutory instruments.

63. Where an Act confers upon any person or authority power to make, give or issue any statutory instrument, then—

Construction of statutory instruments.

- (a) expressions used in any statutory instrument so made, given or issued shall have the same meanings as in the Act conferring the power, and these Regulations shall apply to any statutory instrument so made as if it were an Act and as if each such rule, regulation, bye-law, article or other sub-division of such statutory instrument were a section of an Act; and
- (b) any statutory instrument so made, given or issued shall be read and construed subject to the Act under which it was made, given or issued and so as not to exceed the power of that person or authority, to the intent that where any such statutory instrument would, but for this regulation, have been construed as being in excess of the power conferred upon that person or authority, such statutory instrument shall nevertheless be valid to the extent to which it is not in excess of that power; and
- (c) any act done under or by virtue of or in pursuance of any statutory instrument so made, given or issued shall be deemed to have been done under or by virtue of or in pursuance of the Act which conferred the power to make, give or issue the statutory instrument.

Notification of statutory instruments. 64. Where an Act confers power to make, give or issue any statutory instrument (other than a proclamation), then, unless it is expressly provided in that Act that the provisions of this regulation shall not apply to any such statutory instrument made, given or issued under or by virtue or in pursuance of the Act, all such statutory instruments shall be notified in or with the Gazette.

Publication of statutory instruments. 65. The publication in the Gazette of a notice stating that any specified statutory instrument (other than a proclamation) has been made, given or issued, and in the case of subsidiary legislation, specifying the place in each Territory where copies thereof may be purchased, shall be sufficient compliance with the provisions of any Act requiring that such statutory instruments be published or notified in the Gazette.

Forms. 66 (1) Notwithstanding the provisions of regulations 64 and 65 of these Regulations, it shall not be necessary to publish in the Gazette any form which is prescribed if there is published in the Gazette a notice specifying an office where such form may be inspected free of charge.

(2) Any form purporting to be a prescribed form shall be presumed, unless the contrary is proved, to have been duly prescribed.

(3) Wherever forms are prescribed, deviations therefrom, not affecting the substance or calculated to mislead, shall not invalidate them.

Construction of resolutions. 67. Where any resolution is or has been passed by either chamber of the Legislature in purported pursuance of any Act, the resolution shall be read and construed subject to the Constitution and to the Act under which it purports to have been passed, to the intent that where the resolution would but for this regulation have been construed as being in excess of authority, it shall nevertheless be a valid resolution to the extent to which it is not in excess of authority.

MISCELLANEOUS

Signification of statutory instruments by Governor-General, etc. 68. (1) Where the Constitution or any Act confers power upon the Governor-General to make, give or issue any statutory instrument, authorise any thing or matter to be done, grant any exemption, remit any fee or penalty or exercise any other power, it shall be sufficient if the exercise of such power by the Governor-General be signified under the hand of the Secretary to the Governor-General.

(2) Nothing in this regulation shall authorise the making or issuing of any warrant, proclamation or other instrument under the public seal otherwise than under the hand of the Governor-General.

69. Where any act, matter or thing is by law directed to be done by the Governor-General or by any Minister, the notification that such act, matter or thing has been done may, unless a specified instrument or method is by that law prescribed for the notification, be by notice in the Gazette.

Notification
in Gazette.

70. Whenever any change in title of any federal public office occurs, the Governor-General may by notice in the Gazette declare that such change of title shall take effect from a day specified in such notice and, with effect from such day, any reference in any enactment to the former title of such office, shall be read and construed as a reference to that office by such new title as the Governor-General may declare in such notice.

Notification
of change
in title of
office.