

CROWN PROCEEDINGS ACT 1950

1950/54 – 1 January 1952

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To consolidate and amend the law relating to the civil liabilities and rights of the Crown and officers of the Crown, and to civil proceedings by and against the Crown

- 1 Short title**
This is the Crown Proceedings Act 1950.
- 2 Interpretation**
- (1) In this Act –
- “agent”, in relation to the Crown, includes an independent contractor employed by the Crown;
- “civil proceedings” means any proceedings in any court other than criminal proceedings; but does not include proceedings in relation to habeas corpus, mandamus, prohibition, or certiorari or proceedings by way of an application for judicial review to the extent that any relief sought in the application is in the nature of mandamus, prohibition, or certiorari;
- “department” means any department or instrument of the executive government of Niue;
- “member of a visiting force” includes a member of any other force who is attached to a visiting force;

“Niue armed forces” means the Niue Naval Forces, the Niue Army, and the Niue Air Force;

“officer”, in relation to the Government of Niue, includes any Niue public servant, a member of Cabinet, and a member of the Niue armed forces, but does not include the Governor-General or any judicial officer;

“order” includes a judgment, decree, rule, award, or declaration;

“proceedings against the Crown” includes a claim by way of set-off or counterclaim raised in proceedings by the Crown;

“servant” has the same meaning as officer;

“ship” includes every description of vessel used in navigation not propelled by oars;

“visiting force” means any naval, military, or air force of any country other than Niue which has been granted a right of entry into or passage through or over Niue.

(2) Any reference in this Act to the Crown, in relation to any civil proceedings, or in relation to any order or judgment debt or costs in connection with any civil proceedings, shall be construed as including a reference to the Cabinet or any Government department or officer of the Crown where the Cabinet, department, or officer is a party or third party to the proceedings under section 14.

(3) The Cabinet shall not be deemed to be the Crown in relation to any proceedings by reason only of the fact that the proceedings are brought by the Cabinet upon the relation of some other person.

PART 1

SUBSTANTIVE LAW

3 Claims enforceable by or against the Crown

(1) (a) All debts, damages, duties, sums of money, land, or goods, due, payable or belonging to the Crown shall be sued for and recovered by proceedings taken for that purpose in accordance with this Act.

(b) Nothing in paragraph (a) shall interfere with or restrict any special power or authority vested in the Crown, or in any person on its behalf, with respect to all or any of the matters mentioned in paragraph (a).

(2) Any person may enforce as of right, by civil proceedings taken against the Crown for that purpose in accordance with this Act, any claim or demand against the Crown in respect of any of the following causes of action –

(a) The breach of any contract or trust;

(b) Any wrong or injury for which the Crown is liable in tort under any enactment which is binding on the Crown;

(c) Any cause of action, in respect of which a claim or demand may be made against the Crown under any enactment which is binding on the Crown, and for which there is not another equally convenient or more convenient remedy against the Crown;

(d) Any cause of action, which is independent of contract, trust, or tort, or any Act, for which an action for damages or to recover property of any kind would lie against the Crown if it were a private person of full age and capacity, and for which there is not another equally convenient or more convenient remedy against the Crown.

(3) Any other cause of action in respect of which a petition of right would lie against the Crown at common law or in respect of which relief would be granted against the Crown in equity.

4 [Repealed]

5 Liability of the Crown under other Acts

Except as expressly provided by this Act or any other Act, this Act shall not be construed so as to make any Act binding upon the Crown which would not otherwise be so binding, or so as to impose any liability of the Crown by virtue of any Act which is not binding on the Crown.

6 Liability of the Crown in tort

(1) (a) The Crown shall be subject to all those liabilities in tort to which, if it were a private person of full age and capacity, it would be subject –

- (i) in respect of torts committed by its servants or agents;
- (ii) in respect of any breach of those duties which a person owes to his servants or agents at common law by reason of being their employer; and
- (iii) in respect of any breach of the duties attaching at common law to the ownership, occupation, possession or control of property.

(b) No proceedings shall lie against the Crown by virtue of paragraph (a) in respect of any act or omission of a servant or agent of the Crown unless the act or omission would apart from this Act have given rise to a cause of action in tort against that servant or agent or his estate.

(2) Where the Crown is bound by a statutory duty which is binding also on persons other than the Crown and its officers, then, subject to this Act, the Crown shall, in respect of a failure to comply with that duty, be subject to all those liabilities in tort (if any) to which it would be so subject if it were a private person of full age and capacity.

(3) Where any functions are conferred or imposed upon an officer of the Crown and that officer commits a tort while performing or purporting to perform those functions, the liabilities of the Crown in respect of the tort shall be such as they would have been if those functions had been conferred or imposed solely by virtue of instructions lawfully given by the Crown.

(4) Any enactment which negatives or limits the amount of the liability of any Government department or officer of the Crown in respect of any tort committed by that department or officer shall, in the case of proceedings against the Crown under this section in respect of a tort committed by that department or officer, apply in relation to the Crown as it would have applied in relation to that department or officer if the proceedings against the Crown had been proceedings against that department or officer.

(5) No proceedings shall lie against the Crown by virtue of this section in respect of anything done or omitted to be done by any person while discharging or purporting to discharge any responsibilities which he has in connection with the execution of judicial process.

7 Provisions as to industrial property

(1) Where an officer or agent of the Government of Niue infringes an intellectual property right protected by the law of Niue and the infringement is committed with the authority of the Government, civil proceedings in respect of the infringement shall lie against the Government under this Act.

(2) [Repealed]

(3) Subject to subsection (1), no proceedings shall lie against the Crown by virtue of this Act in respect of the infringement of a patent, a registered trade mark, or of any such copyright as is mentioned in subsection (1).

8 Law as to indemnity, contribution, and joint and several tortfeasors

Where the Crown is subject to any liability by virtue of this Part, the law relating to indemnity and contribution shall be enforceable by or against the Crown in respect of the liability to which it is so subject as if the Crown were a private person of full age and capacity.

9 [Repealed]

10 Claims in respect of visiting forces

(1) Any person who suffers in Niue any damage, loss or injury by, through, or in connection with the use of any ship, vehicle, or aircraft belonging to any visiting force, or who has or deems himself to have any just claim or demand in respect of any cause of action to which this section applies against a member of any visiting force or a person acting for or on behalf of any visiting force, shall be entitled to make against the Crown any claim or demand which he would have been entitled to make under this Part if the ship or vehicle had belonged to the Crown, or the aircraft had been a service aircraft, or the member or the person so acting had been a member of the Niue armed forces, and if the Government of the country to which the visiting force belongs had been the Crown, and for the like amount (if any) and in the like form and manner as the amount, form, and manner of the claim or demand that he would have been entitled to make as aforesaid.

(2) This section shall apply to any cause of action which arises in Niue and which is in respect of the death of or bodily injury to any person or damage to any property.

(3) In respect of any claim or demand made under this section the Crown shall have, in relation to the person making it, the same rights and liabilities as the Crown would have had if the ship or vehicle belonging to the visiting force had belonged to the Crown or the aircraft belonging to the visiting force had been a service aircraft, or the member of the visiting force or the person acting for or on behalf of the visiting force had been a member of the Niue armed forces, as the case may be.

(4) In the determination of any such claim or demand made by any person against the Crown, regard shall be had to any payment which that person has received or is entitled to receive, whether from the Crown or from any other person or authority, in satisfaction, wholly or partly, of the claim or demand.

(5) For the purposes of this section all persons who, by the law of the country to which any visiting force belongs, are for the time being subject to the naval, military, or air force law of that country shall be deemed to be members of the visiting force.

(6) For the purposes of any proceedings to enforce a claim or demand made under this section, a certificate issued by or on behalf of such authority as may be appointed for the purpose by the Government of the country to which any visiting force belongs stating that a person of the name and description specified in the certificate is, or was at a time so specified, subject to the naval, military, or air force law of that country shall be conclusive evidence of that fact.

(7) If in any proceedings as aforesaid the question is raised whether any person whose name appears in or in connection with the proceedings is or was at any time a member of any visiting force, any such certificate as aforesaid relating to a person bearing that name shall, unless the contrary is proved, be deemed to relate to that person.

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(8) Any document purporting to be a certificate issued for the purposes of this section and to be signed by or on behalf of an authority described as appointed by the Government of any country for the purposes of this section shall be received in evidence and shall, unless the contrary is proved, be deemed to be a certificate issued by or on behalf of an authority so appointed.

11 [Repealed]

PART 2

JURISDICTION, PROCEDURE, AND JUDGMENTS

12 Civil proceedings by or against the Crown

All civil proceedings which must be taken by, or may be brought against, the Crown under this Act may be commenced, heard, and determined in the same Court and in like manner in all respects as in suits between subject and subject.

13 Interpleader

Without limiting any other provisions of this Act, it is hereby declared that the Crown may obtain relief by way of interpleader proceedings, and may be made a party to such proceedings, in the manner in which a subject may obtain relief by way of such proceedings or be made a party to it, and may be made a party to such proceedings notwithstanding that the application for relief is made by a sheriff or bailiff or other like officer; and all rules of Court relating to interpleader proceedings shall, subject to this Act, have effect accordingly.

14 Method of making Crown a party to proceedings

(1) Civil proceedings under this Act by the Crown may be instituted by –

- (a) The appropriate Government department in its own name if the department has power to sue apart from this section; or
- (b) The appropriate officer of the Crown in the name in which he may sue on behalf of the Crown or of any Government department if the officer has power to sue on behalf of the Crown or of any Government department apart from this section; or
- (c) The Cabinet, if there is no such appropriate department or officer or if the Cabinet has any reasonable doubt whether any and, if so, which department or officer is appropriate; or
- (d) Any two or more of them jointly.

(2) Civil proceedings under this Act against the Crown shall be instituted against –

- (a) The appropriate Government department in its own name if the department may be sued apart from this section; or
- (b) The appropriate officer of the Crown in the name in which he may be sued on behalf of the Crown or of any Government department if the officer may be sued on behalf of the Crown or of any Government department apart from this section; or
- (c) The Cabinet if there is no such appropriate department or officer or if the person instituting the proceedings has any reasonable doubt whether any and, if so, which Department or officer is appropriate; or
- (d) Any two or more of them jointly.

(3) The Crown may be joined as a plaintiff to any civil proceedings to which it could be a plaintiff under this Act by joining as a plaintiff –

- (a) Any Government department by which, or officer of the Crown by whom, the proceedings could be instituted under subsection (1); or

- (b) The Cabinet if there is no such department or officer or if the person seeking to join the Crown as a plaintiff has any reasonable doubt whether any and, if so, which department or officer should be so joined; or
- (c) Any two or more of them jointly.

(4) The Crown may be joined as a defendant or third party to any civil proceedings to which it could be a defendant under this Act by joining as a defendant or third party –

- (a) Any Government department against which, or officer of the Crown against whom, the proceedings could be instituted under subsection (2); or
- (b) The Cabinet if there is no such department or officer or if the person seeking to join the Crown as a defendant or third party has any reasonable doubt whether any and, if so, which department or officer should be so joined; or
- (c) Any two or more of them jointly.

(5) (a) Where any civil proceedings against the Crown under this Act are instituted against the Cabinet or the Cabinet is joined as a party or third party to any such proceedings, an application may at any stage of the proceedings be made to the Court by or on behalf of the Cabinet to have one or more of the Government departments or officers of the Crown against which or against whom the proceedings could have been instituted under subsection (2), substituted for it as a party or third party to the proceedings; and where any such proceedings are brought against any such department or officer, or where any such department or officer is joined as a party or third party to any such proceedings, an application may at any stage of the proceedings be made to the Court on behalf of the department or officer to have the Cabinet or any such department or officer substituted for the applicant as a party or third party to the proceedings.

(b) Upon any such application the Court may make an order granting the application on such terms as the Court thinks just, and the proceedings shall continue accordingly.

(6) No proceedings instituted under this Act to which the Cabinet or any Government department or officer of the Crown is a party or third party shall abate or be affected by any change in the person holding the office of a Minister or any other office in the Government service or in the person or body of persons constituting the department.

(7) Where the Cabinet or any Government department or officer of the Crown is a party or third party to any proceedings under this section, any order of the Court against or in favour of the Crown in those proceedings shall be made against or in favour of the Cabinet or the department or officer as the case may be.

15 [Repealed]

16 Service of documents and time for filing defence by Crown

(1) In any civil proceedings instituted against the Cabinet or to which the Cabinet is joined as a party or third party, as aforesaid, the first document required to be served on him, and any other document required to be served before an address for service has been given by him shall be served on the Cabinet by delivering it to the Registrar of the High Court of Niue or by leaving at the office of the Registrar at his said office or by sending it by post in a registered letter addressed to the Registrar of the High Court at his said office.

(2) In any civil proceedings against the Crown under this Act the time to be allowed in any writ or summons for the filing of a statement of defence or notice of

intention to defend shall be not less than 28 days, or such further time as the Court may allow.

(3) Where any document is sent by post in the manner prescribed by subsection (1) it shall be deemed to have been served at the time at which the letter would have been delivered in the ordinary course of post.

17 Nature of relief

(1) In any civil proceedings under this Act by or against the Crown or to which the Crown is a party or third party the Court shall have power to make all such orders as it has power to make in proceedings between subjects, and otherwise to give such appropriate relief as the case may require.

(2) (a) Where in any proceedings against the Crown any such relief is sought as might in proceedings between subjects be granted by way of injunction or specific performance, the Court shall not grant an injunction or make an order for specific performance, but may instead make an order declaratory of the rights of the parties.

(b) In any proceedings against the Crown for the recovery of land or other property, the Court shall not make an order for the recovery of the land or delivery of the property, but may instead make an order declaring that any person is entitled as against the Crown to the land or property or to the possession of it.

(3) The Court shall not in any civil proceedings grant any injunction or make any order against an officer of the Crown if the effect of granting the injunction or making the order would be to give any relief against the Crown which could not have been obtained in proceedings against the Crown.

18 Appeals, stay of execution, and costs

(1) Subject to this Act, all enactments and rules of court relating to appeals and stay of execution shall, with any necessary modifications, apply to civil proceedings by or against the Crown under this Act as they apply to proceedings between subjects; and the costs of suit shall follow on either side as in ordinary cases between other suitors.

(2) The Crown shall not be required under any rule of court or order to deposit or give security for the costs of any other party.

19 Interest on debts and costs

(1) Any judgment debt due from or to the Crown shall carry interest if it would carry interest if it were due from or to a subject, and any interest so payable shall be at the rate at which it would be payable if the judgment debt were due from or to a subject.

(2) Any costs awarded to or against the Crown shall carry interest if the costs would carry interest if they were awarded to or against a subject, and any interest so payable shall be at the rate at which it would be payable by a subject.

(3) Any judgment in any civil proceedings by or against the Crown may award interest to any party to whom interest could be awarded if the proceedings were between subjects at the rate at which interest could be so awarded.

20 Recovery of fines imposed otherwise than by judgment or conviction

(1) Notwithstanding sections 2 to 19 where a fine is imposed upon any person otherwise than by a judgment or conviction of some court, and no other procedure is provided by any Act or rule of court for the recovery of the fine, the court by which the fine was imposed shall, if the same is not immediately paid, by writing in

the form numbered (1) in Schedule 3, certify the fact, together with the name and place of abode or business, of the person on whom the fine was imposed, and the cause and amount of the fine, and shall deliver or send by post the writing to the Cabinet who, upon receipt of it, shall cause a final judgment to be signed in the High Court for the amount of the fine, and a sum not exceeding ten dollars for costs.

(2) Every such judgment may be in the form numbered (2) in Schedule 3 or to the like effect, and no appeal shall lie therefrom.

21 Recovery of debts due upon recognisance

(1) Notwithstanding sections 2 to 20 where any person has entered into a recognisance to Her Majesty, and the recognisance is forfeited, and no other procedure is provided by any Act or rule of Court for the estreat thereof, the Court before which, the same was forfeited may cause the recognisance to be estreated as provided in this section.

(2) The Judge shall, by writing under his hand in the form numbered (3) in Schedule 3, or to the like effect, certify that the forfeiture has taken place, and shall deliver or send by post the said recognisance and writing to the Cabinet who, upon receipt of it shall cause a final judgment to be signed in the High Court for the amount of the recognisance and a sum not exceeding ten dollars for costs.

(3) Every such judgment may be in the form numbered (4) in Schedule 3 or to the like effect, and no appeal shall lie therefrom.

22 [Repealed]

23 Judgments may be vacated by High Court

(1) Where final judgment has been signed under section 20 or section 21, the High Court may order satisfaction to be entered upon the judgment, whether execution has been issued on it or not.

(2) Such an order shall not be made except upon notice calling upon the Cabinet to show cause, nor unless it is proved by affidavit to the satisfaction of the High Court either that the judgment has been satisfied, or that, according to equity and good conscience and the real merits and justice of the case, the defendant ought not to be required to satisfy the same.

PART 3

EXECUTION

24 Satisfaction of orders against the Crown

(1) Except as provided in this section, no execution or attachment or process in the nature of it shall be issued out of any court for enforcing satisfaction by the Crown, or by the Cabinet or any Government department or officer of the Crown of any order made in any civil proceedings under this Act.

(2) (a) Where in any civil proceedings any order (whether for costs or otherwise) is made by the court in favour of any person against the Crown or the Cabinet or any Government department or officer of the Crown, and the person in whose favour the order is made so requests, the proper officer of the court shall issue to that person, without payment of any fee, a certificate in the form numbered (5) in Schedule 3 or to the like effect.

(b) If the order provides for the payment of money, the court by which the order is made or any court to which an appeal against the order lies direct that, pending an appeal or otherwise, payment of the money so payable, or any part

of it shall be suspended, and (if the certificate has not been issued) may order any such directions to be inserted in it.

(3) On receipt of any such certificate the Treasurer without further appropriation than this section, may cause to be paid to the person named in it the amount payable by the Crown under the order, together with any costs allowed him by the Court and the interest, if any, lawfully due and may also perform or give effect to the terms of the order so far as it is to be satisfied by the Crown.

(4) The Minister of Finance shall, forthwith after the end of each financial year, cause to be prepared, in such form as he approves or directs, a statement showing all amounts paid under this section without appropriation other than this section; and shall, as soon as practicable, cause the statement (duly audited by the Audit Office) to be laid before the Assembly.

25 Execution by the Crown

(1) Any order made in favour of the Crown against any person in any civil proceedings may be enforced in the same manner as an order made between subjects is enforced, and not otherwise.

(2) Nothing in this section shall affect any procedure which immediately before the commencement of the Act was available for enforcing an order made in favour of the Crown in proceedings brought by the Crown for the forfeiture or condemnation of any goods, or the forfeiture of any ship or any share in a ship.

26 Attachment of money payable by the Crown

(1) Any person who has obtained an order for the payment of money may take proceedings under rules of court, to obtain payment to him of the amount of any debt payable by or accruing due from the Crown to the person against whom the order was made, or so much thereof as may be sufficient to satisfy the order and the costs of the garnishee proceedings; and in any such case the court may make any order in respect of the amount payable by or accruing due from the Crown which it would be entitled to make if the whole proceedings were between subjects.

(2) Except as provided in any other Act, no such order shall be made in respect of –

- (a) Any wages, salary, honorarium, allowances, or expenses payable to any officer of the Crown as such;
- (b) Any money which is subject to the provisions of any enactment prohibiting or restricting assignment or charging or taking in execution.

PART 4

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

27 Discovery

(1) Subject to and under rules of court –

- (a) In any civil proceedings to which the Crown is a party or third party, the Crown may be required by the court to answer interrogatories if the Crown could be required to do so if it were a private person of full age and capacity; and
- (b) In any such proceedings as aforesaid the Crown may be required by the Court to make discovery of documents and produce documents for inspection if the Crown could be required to do so if it were a private person of full age and capacity.

(2) This section shall be without prejudice to any rule of law which authorises or requires the withholding of any document or the refusal to answer any

question on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest.

(3) Any order of the Court made under subsection (1)(a) shall direct by what officer of the Crown the interrogatories are to be answered.

(4) Without prejudice to subsection (2) any rules made for the purposes of this section shall be such as to secure that the existence of a document will not be disclosed if, in the opinion of the Cabinet, it would be injurious to the public interest to disclose its existence.

28 Exclusion of proceedings *in rem*

(1) Nothing in this Act shall authorise proceedings *in rem* in respect of any claim against the Crown, or the arrest, detention or sale of any ships or aircraft, or any cargo or other property belonging to Her Majesty, whether in right of the Government in Niue or otherwise, or give to any person any lien on any such ship, aircraft, cargo, or other property.

(2) (a) Where proceedings *in rem* have been instituted in the High Court against any such ship, aircraft, cargo, or other property, the Court may, if satisfied, either on an application by the plaintiff for an order under this subsection or on application by the Crown to set aside the proceedings, that the proceedings were so instituted by the plaintiff in the reasonable belief that the ship, aircraft, cargo, or other property did not belong to the Crown, order that the proceedings shall be treated as if they were *in personam* duly instituted against the Crown under this Act, or duly instituted against any other person whom the Court regards as the proper person to be sued in the circumstances, and that the proceedings shall continue accordingly.

(b) Any such order may be made upon such terms, if any, as the Court thinks just; and, where the Court makes any such order, it may make such consequential orders as the Court thinks expedient.

29 Application of certain provisions

This Act shall not prejudice the right of the Crown to take advantage of an Act although not named therein; and it is hereby declared that in any civil proceedings against the Crown any Act which could, if the proceedings were between subjects, be relied upon by the defendant as a defence to the proceedings, whether in whole or in part, or otherwise, may, subject to any express provision to the contrary, be so relied upon by the Crown.

Supplemental

30 Rules of court

(1) Any power to make, alter, or revoke rules touching or regulating the practice and procedure of any court shall include power to make, alter, or revoke rules for the purpose of giving effect to this Act, and any such rules may contain provisions to have effect in relation to any proceedings by or against the Crown in substitution for or by way of addition to any of the provisions of the rules applying to proceedings between subjects.

(2) Without prejudice to the generality of subsection (1), rules may be made with respect to the following matters –

(a) For providing for service outside Niue of process or notice of it, in the case of proceedings by the Crown;

(b) For securing that where any civil proceedings are brought against the Crown under this Act the plaintiff shall, before the Crown is required to take any steps in the proceedings, provide the Crown with such information as the Crown may reasonably require as to the circumstances in which it is alleged that the

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liability of the Crown has arisen and as to the departments and officers of the Crown concerned;

- (c) For providing that in the case of proceedings against the Crown the plaintiff shall not enter judgment in default of appearance or pleading without the leave of the court to be obtained on an application of which notice has been given to the Crown;
- (d) For excepting proceedings brought against the Crown from the operation of any rule of court providing for summary judgment without trial;
- (e) For providing that a person shall not be entitled to avail himself of any set-off or counterclaim in any proceedings by the Crown for the recovery of taxes, duties, or penalties, or to avail himself in proceedings of any other nature by the Crown of any set-off or counterclaim arising out of a right or claim to repayment in respect of any taxes, duties, or penalties;
- (f) For providing that a person shall not be entitled, without the leave of the court, to avail himself of any set-off or counterclaim in any proceedings by the Crown if either the subject-matter of the set-off or counterclaim does not relate to the Government department or officer of the Crown in whose name the proceedings are brought or the proceedings are brought in the name of the Cabinet;
- (g) For providing that the Crown, when sued in the name of a Government department or of an officer of the Crown, shall not, without the leave of the court, be entitled to avail itself of any setoff or counterclaim if the subject-matter of it does not relate to that department or officer; and
- (h) For providing that the Crown, when sued in the name of the Cabinet shall not be entitled to avail itself of any set-off or counterclaim without the leave of the court.

31 General rules

The laws, statutes, and rules for the time being in force as to pleading, joinder of parties, third party procedure, evidence, hearing and trial, amendment, arbitration, special cases, the means of procuring and taking evidence, set-off, appeal, and all other laws, statutes, and rules for the time being available as between plaintiffs and defendants in personal actions between subjects, and the practice and course of procedure of the court in its legal and equitable jurisdiction respectively for the time being in reference to such suits and personal actions, shall, unless the court otherwise orders, be applicable, and apply and extend to civil proceedings by or against the Crown.

32-34 [Spent]

35 Saving of certain rights

(1) Nothing in this Act shall apply to or authorise proceedings by or against Her Majesty in her private capacity.

(2) Except as expressly provided in this Act, nothing in this Act shall—

- (a) Affect the law relating to prize salvage, or apply to proceedings in causes or matters within the jurisdiction of the High Court as a Prize Court, or to any criminal proceedings; or
- (b) Authorise proceedings to be taken against the Crown under or in accordance with this Act in respect of any alleged liability of the Crown arising otherwise than in respect of the Government in Niue or affect proceedings against the Crown in respect of any such alleged liability as aforesaid; or

- (c) Affect any proceedings by the Crown otherwise than in right of the Government in Niue; or
 - (d) Subject the Crown to any greater liabilities in respect of the acts or omissions of any independent contractor employed by the Crown than those to which the Crown would be subject in respect of the acts or omissions if the Crown were a private person; or
 - (e) Subject the Crown to any liability in respect of the acts or omissions of any medical practitioner, pharmaceutical chemist, midwife, maternity nurse, dentist, or any other person while any such person is rendering any professional or other service or supplying any medicine, drug, appliance unless the medical practitioner, pharmaceutical chemist, midwife, maternity nurse, dentist or other person is acting as a servant of the Crown at the time of the act or omission; or
 - (f) Subject the Crown, in its capacity as a highway authority, to any greater liability than that to which a local authority is subject in that capacity; or
 - (g) Interfere with or affect any Act that now is or hereafter may be in force whereby the Crown, or any of its officers and servants, is exempt from liability for anything done under the Act or affect any power, authority, or liability vested in or imposed upon the Crown or any of its officers or servants under any such Act; or
 - (h) Affect any right of the Crown to control or otherwise intervene in proceedings affecting the Crown's rights, property, or profits.
- (3) A certificate of the Cabinet –
- (a) To the effect that any alleged liability of the Crown arises otherwise than in respect of Government in Niue; or
 - (b) To the effect that any proceedings by the Crown are proceedings otherwise than in right of the Government in Niue –

shall for the purposes of this Act, be conclusive as to the matter so certified.

(4) Where any property vests in the Crown by virtue of any rule of law which operates independently of the acts or the intentions of the Crown, the Crown shall not by virtue of this Act be subject to any liabilities in tort by reason only of the property being so vested; but this subsection shall be without prejudice to the liabilities of the Crown under this Act in respect of any period after the Crown or any person acting for the Crown has in fact taken possession or control of any such property, or entered into occupation thereof.

(5) This Act shall not operate to limit the discretion of the Court to grant relief by way of mandamus in cases in which such relief might have been granted before the commencement of this Act, notwithstanding that by reason of the provisions of this Act some other and further remedy is available.

SCHEDULE 1
[Repealed]

SCHEDULE 2
[Repealed]

Crown Proceedings Act

SCHEDULE 3

Section 20(1)

(1) CERTIFICATE OF FINE

This is to certify to the Cabinet that, at the _____, this day held at _____, the several persons whose names and places of abode or business are specified in the Schedule below were fined the several sums therein set opposite to their respective names, and that the cause of each such fine is duly and truly set forth in the said Schedule.

Schedule

Full name	Place of Abode or Business	Cause of Fine	Amount
		Behaving and conducting himself in a disorderly manner in Court	\$
Total			\$

Given under my hand this _____ day of _____ 20____.

Judge.

Section 20 (2)

(2) JUDGMENT IN RESPECT OF FINE

In the High Court at _____ No. _____

Be it remembered that the Registrar of the High Court has informed the Court that at the held at _____ on _____ the _____ day of _____, 20____, before _____ a fine of _____ was imposed and inflicted upon _____ because he, the said _____ (*behaved and conducted himself in a disorderly manner in the said Court, or as the case may be*) as by the certificate of the said _____ now filed of record appears. Therefore, on the _____ day of _____, 20____, it is adjudged by the Court here that the Crown do recover against the said _____ the sum of _____ and also the sum of _____ for costs, making together the sum of _____.

Dated at _____ this _____ day of _____ 20____.

Registrar.

Section 21 (2)

CERTIFICATE OF FORFEITURE OF RECOGNISANCE

This is to certify to the Cabinet of Ministers that, at the _____, this day held at _____, the recognisances hereunto annexed were forfeited, and were there and then caused to be estreated.

Given under my hand this _____ day of _____ 20____.

Judge, Commissioner.

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Section 21 (3)

JUDGMENT IN RESPECT OF RECOGNISANCE

In the High Court at

Be it remembered that the Registrar of the High Court has informed the Court that at the held at _____ on the _____ day of _____ 20____, before _____, the recognisance of one _____, by which he acknowledged to owe to the Crown the sum of _____, was forfeited and estreated as by the said recognisance and the certificate of the said _____, now filed of record appears. Therefore, on the _____ day of _____, 20____, it is adjudged by the Court here that the Crown do recover against the said _____ the said sum of _____, and also the sum of _____ for costs, making together the sum of _____

Dated at _____ this _____ day of _____ 20____. Registrar.

Section 24(2)

(5) CERTIFICATE OF JUDGMENT, ETC.

In the High Court at

Between _____, plaintiff, and _____ Defendant.
I hereby certify that _____, of _____, did on the _____ day of _____ 20____, in the High Court _____ at _____, obtain a judgment (order, decree, or declaration); and that by the judgment (order, decree, or declaration) the Crown was ordered to pay to him the sum of _____ (or as the case may be).

Dated at _____ this _____ day of _____ 20____. Registrar.