

Draft Enabling Bill to Implement the Agreement Establishing the Caribbean Court of Justice

A Bill entitled

An Act to implement the Agreement Establishing the Caribbean Court of Justice and for related matters.

ENACTED by

[Short title [and commencement]]

1. (1) This Act may be cited as **The Caribbean Court of Justice Act, 199.....**
(2) [The Act shall come into force on a date to be proclaimed by the].

[Interpretation]

2. In this Act,

[Schedule]

"Agreement" means the Agreement Establishing the Caribbean Court of Justice, the text of which is set out in the Schedule;

"appeal" means an appeal to the Court;

"appellant" means the party appealing from a judgment;

"Commission" means the Regional Judicial and Legal Services Commission established by Article V of the Agreement;

"Contracting Party" means a Contracting Party within the meaning of Article I of the Agreement;

"Court" means the Caribbean Court of Justice established by the Agreement;

"Court of Appeal" means the Court of Appeal of [];

"judgment" includes conviction, decree, ruling, sentence order or decision;

"party" means any party to proceedings before the Court;

"record" means the aggregate of documents relating to proceedings before the Court, including the pleadings, evidence and judgments and exhibits required by these rules to be filed or laid before the Court;

"relevant judgment" means the judgment which is the subject of an appeal;

"Rules of Court" means the Rules of Court made under the authority of this Act:

"Treaty" means the Treaty establishing the Caribbean Community signed at Chaguaramas as on 4 July 1973 and amendments thereto which take effect either provisionally or definitively.

Force of Law

3. The Agreement **and the Rules of Court made thereunder** shall have the force of law.

4. The jurisdiction conferred on the Judicial Committee of the Privy Council by [Section] of the Constitution amended is hereby abolished.

5. The Court shall have:

1. original jurisdiction in accordance with the provisions of Part II of the Agreement; and

2. appellate jurisdiction in accordance with the provisions of Part III of the Agreement.

[Jurisdiction of the Court in contentious proceedings]

6. The Court shall have exclusive jurisdiction to hear and deliver judgment on -

(a) disputes between Contracting Parties;

(b) disputes between Contracting Parties and the Caribbean Community;

(c) referrals from national courts of Contracting Parties; and

(d) applications by nationals in accordance with Article IX(n) of the Agreement, concerning the interpretation and application of the Treaty.

[Applications before the Court]

7. Matters pertaining to the exercise of the original jurisdiction of the Court shall be brought before the Court by written application, in the manner prescribed by the Rules of Court.

[Appeals]

8. An appeal shall lie to the Court with the leave of the Court of Appeal from the decisions of the Court of Appeal:

(a) in respect of final decisions in any civil proceeding where, in the opinion of the Court of Appeal, the question involved in the appeal is one that by reason of its great general or public importance or otherwise, ought to be submitted to the Court;

(b) in such other cases as may be prescribed by any law.

[Appeal as of right]

9. An appeal shall lie to the Court with the special leave of the Court from any decision of the Court of Appeal from any civil or criminal matter.

[Exemption from jurisdiction]

10. Nothing in this Act shall confer jurisdiction on the Court to hear matters in relation to any decision of the Court of Appeal which at the time of entry into force of the Agreement was, pursuant to the Constitution or any other law, declared to be final.

[Applications for leave to appeal]

11. Applications to the Court of Appeal for leave to appeal shall be made by motion or petition within twenty-one days from the date of the relevant judgment, and the applicant shall give all parties directly affected by the appeal, notice of the application for leave to appeal.

[Extension of time for appealing]

12. Notwithstanding any other provision of this Act, an application for extension of time within which an application may be made:

(a) to the Court, for special leave to appeal;

(b) to the Court of Appeal, for leave to appeal,

shall be supported by affidavit stating good and substantial reasons for the application.

Conditional leave to appeal

13. Leave to appeal shall be granted only in accordance with paragraph 3 of Article X of the Agreement:

(a) upon condition of the appellant, within a period to be fixed by the Court of Appeal, but not exceeding ninety days from the date of the hearing of the application for leave to appeal, entering into good and sufficient security, to the satisfaction of the Court of Appeal, in a sum not exceeding [\$], for the due prosecution of the appeal, and the payment of all such costs as may become payable to the respondent in the event of:

(i) the appellant not obtaining an order granting final leave to appeal;

- (ii) the appeal being dismissed for non prosecution; or
- (iii) the Court ordering the appellant to pay the respondent's costs of the appeal; and

(b) upon such other conditions as the Court of Appeal, having regard to all the circumstances of the case, may consider reasonable as the time necessary for the appellant to procure the preparation of the record and the dispatch thereof to the Court.

Execution or stay of execution

14. (1) Where the relevant judgment requires the appellant to pay money or money or perform a duty, the Court of Appeal may, when granting leave to appeal, direct that the judgment or any part thereof be executed or that the execution be suspended pending the appeal, as the Court of Appeal thinks just.

(2) Where the Court of Appeal directs that the relevant judgment be executed, the person in whose favour the judgment is given shall, before the execution thereof, enter into good and sufficient security, to the satisfaction of the Court of Appeal for the due performance of such order as the Court shall think fit to make.

Preparation of record

15. (1) The preparation of the record shall be in accordance with the Rules of the Rules of Court and shall be subject to the supervision of the Court of Appeal.

(2) The parties may submit any disputed question arising in connection with the preparation of the record for the decision of the Court of Appeal which shall give such directions thereon as the justice of the case may require.

Judges' reasons

16. The reasons given by the judge, or any of the judges, for or against any any judgment pronounced in the course of the proceedings out of which the appeal arises shall be incorporated in the record.

Final leave to appeal

17. The Court of Appeal may grant final leave to appeal to an appellant who has complied with section 5 and the appellant shall thereupon prosecute his appeal in accordance with the Rules of Court

Taxation of costs of appeal

18. (1) Where the Court directs a party to bear the costs of an appeal, such costs shall be taxed by the proper officer of the Court of Appeal in accordance with the rules for the time being regulating taxation in the Court of Appeal.

(2) In any proceedings to which the [Crown] / [State] is a party, either as represented by the Attorney-General or otherwise, costs adjudged to the [Crown] / [State] shall not be disallowed or reduced on taxation merely because the proceedings are conducted on behalf of the [Crown] / [State].

Enforcement of Order of Court

19. Any order which the Court may think fit to make on an appeal from a relevant judgment shall be enforced in like manner as any Court original judgment of [**a superior court of**] would be enforced.

Powers of Court

20. (1) A Judge of the Court may exercise all of the powers and functions of [**a superior court of**], except that he may not make a determination under paragraph 3(a) of Article X of the Agreement.

(2) Without affecting subsection (1), any judgment of a Judge under this section may be varied, discharged or reversed by the Court consisting of five Judges.

Payment from Consolidated Fund

21. Monies payable in respect of the Court and the Commission pursuant to Article 13 of the Agreement shall be charged on and paid from the Consolidated Fund.

Appointment of Registrar as Deputy Registrar

22. (1) The Registrar of the Supreme Court shall be a Deputy Registrar of the Court, within the meaning of Article 12 of the Agreement.

(2) The Registry of the Supreme Court shall be designated a sub-Registry of the Court pursuant to the Rules of Court.

23. The Rules of Court made by the President in accordance with Articles 9 and 10 of the Agreement shall be published in the Gazette.

24. (1) The provisions of Section 4 shall not affect any proceedings pending by the Judicial Committee of the Privy Council immediately before the commencement of this Act.

(2) For the purposes of this section, proceedings shall be treated as pending where leave to appeal to [Her Majesty in Council] has been granted.

(3) Any judgment of {Her Majesty in Council} which at the date of commencement of this Act has been given, but has not been satisfied, may be enforced after the commencement of this Act as if it had been a judgment of the Court.

Amended as at 31 May 1999