



DISTRICT COURT ACT 1991

No. 70 of 1991

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ANNO QUADRAGESIMO

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A.D. 1991

No. 70 of 1991

An Act to establish the District Court of South Australia; to define its jurisdiction and powers; and for other purposes.

[Assented to 12 December 1991]

The Parliament of South Australia enacts as follows:

PART I PRELIMINARY

Short title

1. This Act may be cited as the *District Court Act 1991*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. (1) In this Act, unless the contrary intention appears—

“action” means any civil or criminal proceedings in the Court, including proceedings for a contempt of the Court:

“Chief Judge” means the Chief Judge of the Court:

“Court” or “District Court” means the District Court of South Australia:

“District Court Judge” or “Judge” means any Judge of the Court (including the Chief Judge):

“evidentiary material” means any document, object or substance of evidentiary value in proceedings before the Court and includes any document, object or substance that should, in the opinion of the Court, be produced for the purpose of enabling the Court to determine whether or not it has evidentiary value:

“judgment” means a judgment, order or decision and includes an interlocutory judgment or order:

“judicial office” means the office of Judge or Master:

“Master” means a District Court Master:

“rules” means the rules of the Court in force under this Act.

(2) A reference in this Act, or in any other Act or instrument, to the Administrative Appeals Court is, unless it appears from the context that some other meaning is intended, a reference to the Administrative Appeals Division of the District Court.

PART II

DISTRICT COURT OF SOUTH AUSTRALIA

DIVISION I—ESTABLISHMENT OF COURT

Establishment of Court

4. The *District Court of South Australia* is established.

Court is Court of record

5. The Court is a Court of record.

Seal

6. (1) The Court will have such seals as are necessary for the transaction of its business.

(2) A document apparently sealed with a seal of the Court will, in the absence of evidence to the contrary, be taken to have been duly issued under the authority of the Court.

DIVISION II—STRUCTURE OF COURT

Divisions of the Court

7. The Court is divided into the following Divisions:

- (a) the Civil Division;
- (b) the Criminal Division;
- (c) the Criminal Injuries Division;
- (d) the Administrative Appeals Division.

DIVISION III—JURISDICTION OF THE COURT

Civil jurisdiction

8. (1) The Court has the same civil jurisdiction (both at law and in equity) as the Supreme Court at first instance subject, however to the following qualifications:

- (a) the Court has no jurisdiction in probate or admiralty;
- (b) the Court has no supervisory jurisdiction except as expressly conferred by statute with respect to inferior courts or tribunals, or with respect to administrative acts, and has no jurisdiction to grant relief in the nature of a prerogative writ.

(2) The Court, in its Criminal Injuries Division, has the jurisdiction conferred on it by the *Criminal Injuries Compensation Act 1978*.

(3) The Court, in its Administrative Appeals Division, has the jurisdiction conferred on the Administrative Appeals Court by statute.

(4) The Court has any other civil jurisdiction conferred by statute.

Criminal jurisdiction

9. (1) The Court has jurisdiction to try a charge of any offence except treason or murder, or a conspiracy or attempt to commit, or assault with intent to commit, either of those offences.

(2) The Court has jurisdiction to convict and sentence, or to sentence, a person found guilty on trial, or on his or her own admission, of such an offence.

(3) The Court's jurisdiction to try, convict or sentence for a summary offence exists only where the offence is charged in the same information as an indictable offence.

(4) The Court has any other criminal jurisdiction conferred by statute.

PART III**COMPOSITION OF THE COURT****DIVISION I—THE COURT'S JUDICIARY****Court's judiciary**

10. (1) The Court's judiciary consists of—

(a) the Chief Judge;

(b) the other Judges;

and

(c) the Masters.

(2) A Master is, while holding that office, also a Magistrate.

Chief Judge

11. (1) The Chief Judge is the principal judicial officer of the Court.

(2) The Chief Judge is responsible for the administration of the Court.

(3) In the absence of the Chief Judge from official duties, responsibility for administration of the Court devolves on a Judge appointed by the Governor to act in the Chief Judge's absence or, if no such appointment has been made, on the most senior of the other Judges who is available to undertake that responsibility.

DIVISION II—JUDICIAL OFFICE**Appointment to judicial office**

12. (1) Appointments to judicial office in the Court are made by the Governor.

(2) The following provisions govern eligibility for appointment to judicial office:

(a) a person is not eligible for appointment as the Chief Judge unless that person is a legal practitioner of at least 10 years standing;

(b) a person is not eligible for appointment as a Judge unless that person is a legal practitioner of at least 7 years standing;

and

(c) a person is not eligible for appointment as a Master unless that person is a legal practitioner of at least 5 years standing.

(3) A person who is eligible for appointment to judicial office, or who has held but retired from judicial office, may be appointed to act in such an office (except the office of Chief Judge) for a specified term not exceeding 12 months.

(4) A member of the judiciary of another Court cannot be appointed to act in a judicial office of the Court except on the recommendation of the Chief Judge made with the concurrence of the judicial head of that other Court.

(5) For the purpose of determining whether a legal practitioner has the standing necessary for appointment to a particular judicial office, periods of legal practice and (where relevant) judicial service within and outside the State will be taken into account.

Judicial remuneration

13. (1) The Chief Judge and the Judges are entitled to the remuneration determined by the Remuneration Tribunal in relation to the respective offices.

(2) A salary determined by the Remuneration Tribunal for a judicial office cannot be reduced by subsequent determination.

(3) A Master is entitled to the same remuneration as a Magistrate in Charge.

Leave

14. (1) A Judge is entitled to leave (or payment in lieu of leave) on the same basis as a Judge of the Supreme Court.

(2) A Master is entitled to leave (or payment in lieu of leave) on the same basis as a Magistrate.

Removal of Judge or Master

15. (1) A Judge cannot be removed from office except on an address from both Houses of Parliament praying for his or her removal.

(2) A Master cannot be removed or suspended from office except on the recommendation or with the consent of the Chief Judge.

Retirement of members of judiciary

16. (1) A Judge must retire from office on reaching the age of 70 years.

(2) A Master must retire from office on reaching the age of 65 years.

(3) A person who retires from judicial office or who, having been appointed to act in a judicial office, completes the term of appointment may continue to act in the relevant office for the purpose of completing the hearing and determination of proceedings part-heard before retirement or completion of the term.

DIVISION III—COURT'S ADMINISTRATIVE AND ANCILLARY STAFF

Administrative and ancillary staff

17. (1) The Court's administrative and ancillary staff consists of—

- (a) the Registrar;
- (b) the Deputy Registrars;
- (c) any other persons appointed to the non-judicial staff of the Court.

(2) The Court's administrative and ancillary staff will be employed under the *Government Management and Employment Act 1985*.

The Registrar

18. (1) The Registrar is the Court's principal administrative officer.

(2) A person cannot be appointed to the office of Registrar of the Court, nor can a person holding that office be dismissed or reduced in status, except on the recommendation, or with the concurrence, of the Chief Judge.

Responsibilities of non-judicial staff

19. A member of the Court's administrative or ancillary staff is responsible to the Chief Judge (through any properly constituted administrative superior) for the proper and efficient discharge of his or her duties.

PART IV**SITTINGS AND DISTRIBUTION OF BUSINESS****The Court, how constituted**

20. (1) Subject to this section, the Court, when sitting to adjudicate on any matter, may be constituted of—

(a) a Judge;

or

(b) if the matter lies within a jurisdiction of the Court conferred by statute or the rules on Masters—a Master (but the jurisdiction of Masters is not exclusive; such a jurisdiction may also be exercised by a Judge).

(2) If a matter lies within the criminal jurisdiction of the Court and is to be tried by jury, the Court will be constituted of a Judge sitting with a jury.

(3) If an Act conferring a statutory jurisdiction on the Court in its Administrative Appeals Division provides that the Court is to be constituted of a Magistrate, the Court will, in exercising that jurisdiction, be constituted of a Magistrate.

(4) If an Act conferring a statutory jurisdiction on the Court in its Administrative Appeals Division provides that the Court is to sit with assessors in exercising that jurisdiction, then the following provisions apply:

(a) in any proceedings in which a party seeks the exercise of the relevant jurisdiction the Court will (except for the purpose of dealing with interlocutory, procedural or administrative matters) sit with assessors selected in accordance with the Act conferring the jurisdiction;

(b) where the Court sits with assessors—

(i) questions of law or procedure will be determined by the Judge or Magistrate presiding at the proceedings;

and

(ii) other questions will be determined by majority opinion.

(5) The Court may, at any one time, be separately constituted in accordance with this section for the hearing and determination of any number of separate matters.

(6) A Judge or Master may sit in any Division of the Court.

Time and place of sittings

21. (1) The Court may sit at any time (including a Sunday).

(2) The Court may sit at any place (either within or outside the State).

(3) The Court will sit at such times and places as the Chief Judge may direct.

(4) Registries of the Court will be maintained at such places as the Governor may determine.

Adjournment from time to time and place to place

22. The Court may—

- (a) adjourn proceedings from time to time and from place to place;
 - (b) adjourn proceedings to a time, or a time and place, to be fixed;
- or
- (c) order the transfer of proceedings from place to place.

Sittings in open Court or in chambers

23. Subject to any Act or rule to the contrary, the Court's proceedings must be open to the public.

Transfer of proceedings between Courts

24. (1) A Judge of the Supreme Court may order—

- (a) that civil or criminal proceedings in the District Court be transferred to the Supreme Court;
- or
- (b) that civil or criminal proceedings in the Supreme Court that lie within the jurisdiction of the District Court be transferred to the District Court.

(2) A Judge of the District Court may order that civil or criminal proceedings in the District Court be transferred to the Supreme Court.

(3) Where proceedings have been transferred under this section, they may be continued and completed as if steps taken in the proceedings prior to the transfer had been taken in the court to which they are transferred.

PART V**EVIDENTIARY POWERS****Power to require attendance of witnesses and production of evidentiary material**

25. (1) The Court may, on the application of a party to proceedings or on its own initiative, issue a summons requiring a person to appear before the Court at a specified time and place to give evidence or to produce evidentiary material (or both).

(2) A summons to produce evidentiary material may, instead of providing for production of the material before the Court, provide for production of the material to an officer of the Court nominated in the summons.

(3) If—

- (a) a person fails to comply with a summons under subsection (1);

or

- (b) there are grounds for believing that, if such a summons were issued, a person would not comply with it,

the Court may issue a warrant to have the person arrested and brought before the Court.

Power of Court to compel the giving of evidence

26. (1) A person who is called to give evidence or to produce evidentiary material before a Court and—

- (a) refuses or fails to make an oath or affirmation when required to do so by the Court;

- (b) refuses or fails to give evidence on a subject on which that person is compellable to give evidence;
- (c) refuses or fails without reasonable excuse to produce evidentiary material that that person is required by the Court to produce,

commits a contempt of the Court.

(2) This section applies whether the person was summoned before the Court, brought before the Court on a warrant, or came to the Court of his or her own volition.

Entry and inspection of property

27. (1) A Court may enter any land or building and carry out an inspection that the Court considers relevant to a proceeding before the Court.

(2) A Court may authorize an officer of the Court to enter any land or building and carry out an inspection that the Court considers relevant to a proceeding before the Court.

(3) A person who obstructs a Court, or a person authorized by a Court, in the exercise of a power of entry or inspection under this section commits a contempt of the Court.

Production of persons held in custody

28. If the Court requires the attendance before it of any person who is held in custody in the State, the Court may—

- (a) issue a summons or a notice requiring the custodian to produce that person before the Court at a nominated time and place;

or

- (b) issue a warrant authorizing the sheriff, or a member of the police force, to take the person from the custodian and bring him or her before the Court.

Issue of evidentiary summonses

29. A summons or a notice under this Part may be issued on behalf of the Court by—

- (a) a Judge or Master;

- (b) the Registrar;

or

- (c) any other officer authorized by the rules to issue such summonses.

PART VI

SPECIAL PROVISIONS AS TO THE COURT'S CIVIL JURISDICTION

Interim injunctions, etc.

30. The Court may, on such terms as appear just, grant an injunction or make any other order that may be necessary to preserve the subject-matter of an action intact until the questions arising in the action have been finally determined.

Restraining orders

31. (1) A Court may make an order (a "restraining order") preventing or restricting dealing with property of a defendant to an action if—

- (a) the action appears to have been brought on reasonable grounds;

- (b) the property may be required to satisfy a judgment that has been, or may be, given in the action;

and

(c) there is a substantial risk that the defendant will dispose of the property before judgment is given, or before it can be enforced.

(2) A restraining order must be served as directed by the Court.

(3) A person who deals with property subject to a restraining order except as permitted by the order commits a contempt of Court.

(4) The Court may vary or revoke a restraining order at any time.

(5) If it appears to a Court that grounds for making a restraining order exist but the Court requires further evidence to identify property in relation to which the order could be effectively made, the Court may summons the defendant, or issue a warrant to have the defendant arrested and brought before the Court, for examination on that subject.

Mediation and conciliation

32. (1) If it appears to the Court at or before the trial of an action, that there is a reasonable possibility of settling the action, the Court may—

(a) appoint, with the consent of the parties, a mediator to endeavour to achieve a negotiated settlement of the action;

or

(b) itself endeavour to achieve a negotiated settlement of the action.

(2) A mediator appointed under this section has the privileges and immunities of a Judge and such of the powers of the Court as the Court may delegate.

(3) Evidence of anything said or done in an attempt to settle an action under this section is not subsequently admissible in the proceedings or in related proceedings.

(4) A Judge or Master who takes part in an attempt to settle an action is not disqualified from continuing to sit for the purpose of hearing and determining the action.

(5) Where a case is settled under this section, the terms of the settlement may be embodied in a judgment.

Trial of issues by arbitrator

33. (1) The Court may refer an action or any issues arising in an action for trial by an arbitrator.

(2) The arbitrator may be appointed either by the parties to the action or by the Court.

(3) The arbitrator becomes for the purposes of the reference an officer of the Court and may exercise such of the powers of the Court as the Court delegates to the arbitrator.

(4) The Court will, unless good reason is shown to the contrary, adopt the award of the arbitrator as its judgment on the action or issues referred.

(5) The costs of the arbitrator will be borne, in the first instance, equally by the parties or in such other proportions as the Court may direct, but the Court may subsequently order that a party be reimbursed wholly or in part by another party for costs incurred under this subsection.

Expert reports

34. (1) The Court may refer any question of a technical nature arising in an action for investigation and report by an expert in the relevant field.

(2) A person to whom a question is referred under this section becomes for the purposes of the investigation an officer of the Court and may exercise such of the powers of the Court as the Court delegates.

(3) The Court may adopt a report obtained under this section in whole or part.

(4) The costs of the expert's investigation and report will be borne, in the first instance, equally by the parties or in such other proportions as the Court may direct, but the Court may subsequently order that a party be reimbursed wholly or in part by another party for costs incurred under this subsection.

Merger of law and equity

35. (1) Legal and equitable claims and defences may be included (without discrimination between them) in the same action.

(2) If there is a conflict between the rules of common law and equity as they apply to a particular action, the rules of equity prevail.

Alternative forms of relief

36. (1) Although a particular form of relief is sought by a party to an action, the Court may grant any other form of relief that it considers more appropriate to the circumstances of the case.

(2) In particular—

(a) where a party seeks relief by way of injunction or specific performance, the Court may award damages in addition to or in substitution for such relief;

(b) where a party seeks foreclosure of the equity of redemption in mortgaged property, the Court may, instead of ordering foreclosure—

(i) direct the sale of the mortgaged property;

or

(ii) direct a transfer of the mortgage debt and security to a person who agrees to assume the debt.

(This subsection is not exhaustive.)

Declaratory judgments

37. The Court may, on matters within its jurisdiction, make binding declarations of right whether or not any consequential relief is or could be claimed.

Interim awards of damages

38. (1) In an action for damages, the Court may give a declaratory judgment finally determining the question of liability between the parties, but leaving the quantum of damages to be determined subsequently.

(2) The Court may, at the time of giving declaratory judgment or subsequently, order the defendant—

(a) to make such interim payments as the Court thinks fit on account of the damages that are yet to be finally assessed (but such payments should not include any allowance for non-economic loss unless the Court is satisfied that there is good reason for including such an allowance);

(b) to give such security as the Court thinks fit for the payment of damages yet to be assessed.

(3) If—

(a) declaratory judgment is given in a case of personal injury;

(b) the injured person is incapacitated (wholly or partially) for employment;

and

- (c) it appears to the Court that the injured person is not making adequate efforts towards rehabilitation for employment,

a component of an interim payment attributable to loss of earnings must not exceed 75% of the loss of earnings over the period to which the interim payment relates.

(4) A party to an action in which declaratory judgment has been given may at any time apply to the Court for a final assessment of damages.

(5) If an application is made under subsection (4) and—

- (a) the action arises from personal injury and the medical condition of the injured person appears to have stabilized;

or

- (b) four years or more have elapsed since the date of the declaratory judgment,

the application should not be refused except in exceptional circumstances.

(6) If a party in whose favour a declaratory judgment has been given dies before the final assessment of damages—

- (a) the administrator of the deceased's estate may continue the action for the benefit of the estate (in which case the deceased's damages will be finally assessed to the date of death and further allowance may be made for damages allowable under the *Survival of Causes of Action Act 1940*);

or

- (b) if the deceased's death was caused or accelerated by the circumstances out of which the action arose—the administrator may convert the action into one on behalf of dependants under the *Wrongs Act 1936*.

(7) If the administrator converts the action into one on behalf of dependants, the Court will, in assessing damages on behalf of the dependants, make a proper allowance for damages paid to the deceased.

Pre-judgment interest

39. (1) Unless good reason is shown to the contrary, the Court will, on the application of a party in whose favour a monetary judgment has been, or is to be, given include in the judgment an award of interest in accordance with this section.

(2) The interest—

- (a) will be calculated at a rate fixed by the Court;

(b) will be calculated—

- (i) where the judgment is given on an unliquidated claim—from the commencement of proceedings to the date of judgment;

- (ii) where the judgment is given on a liquidated claim—from the date on which the liability to pay the amount of the claim fell due to the date of judgment,

or in respect of such other period as may be fixed by the Court;

and

- (c) is, in accordance with the Court's determination, payable in respect of the whole or a specified part of the amount for which the judgment is given.

(3) The Court may, without proceeding to calculate interest under subsection (2), award a lump sum instead of interest.

(4) This section does not—

- (a) authorize the award of interest on interest;
- (b) authorize the award of interest on exemplary or punitive damages;
- (c) affect damages for dishonour of a negotiable instrument;
- (d) authorize the award of interest (except by consent) on a sum for which judgment is given by consent;
- (e) limit or affect the operation of any other enactment or rule of law providing for the award of interest.

Interest on judgment debts

40. (1) A judgment debt bears interest at a rate prescribed by the rules.

(2) Subject to any direction by the Court to the contrary, the interest runs—

- (a) in the case of taxed costs—from the date the costs are taxed or an earlier date fixed by the taxing officer;
- (b) in the case of any other monetary sum—from the date of the judgment.

Payment to child

41. (1) Although a party to an action is a child, the Court may order the payment of money to that party.

(2) Where such an order is made, a receipt given by the child is a valid discharge for the person to whom it is given.

Costs

42. (1) Subject to subsection (2) and the rules, costs in any civil proceedings will be in the discretion of the Court.

(2) If—

- (a) an action for the recovery of damages or any other monetary sum is brought in the Court;
 - (b) the action might have been brought in the Magistrates Court;
- and
- (c) the plaintiff recovers less than an amount fixed by the rules for the purposes of this paragraph,

no order for costs will be made in favour of the plaintiff unless the Court is of the opinion that it is just in the circumstances of the case that the plaintiff should recover the whole or part of the costs of action.

(3) If proceedings are delayed through the neglect or incompetence of a legal practitioner, the Court may, at the conclusion of those proceedings—

- (a) disallow the whole or part of the costs as between the legal practitioner and his or her client (and, where appropriate, order the legal practitioner to repay costs already paid);
- (b) order the legal practitioner to indemnify his or her client or any other party to the proceedings for costs resulting from the delay;

(c) order the legal practitioner to pay to the Registrar for the credit of the Consolidated Account an amount fixed by the Court as compensation for time wasted.

(4) The Court may not make an order against a legal practitioner under subsection (3) unless the Court has informed the practitioner of the nature of the order proposed and allowed the practitioner a reasonable opportunity to make representations, and call evidence, in relation to the matter.

(5) If a person who is summoned to appear as a witness in any proceedings fails, without reasonable excuse, to appear in obedience to the summons, the Court may order that person—

(a) to indemnify the parties to the proceedings for costs resulting from failure to obey the summons;

(b) to pay to the Registrar for the credit of the Consolidated Account an amount fixed by the Court as compensation for time wasted in consequence of the witness's failure to obey the summons.

PART VII

APPEALS AND RESERVATION OF QUESTIONS OF LAW

Right of appeal

43. (1) A party to an action may, in accordance with the rules of the appellate court, appeal against any judgment given in the action.

(2) The appeal lies—

(a) in the case of an interlocutory judgment given by a Master—to the Court constituted of a Judge;

(b) in the case of an interlocutory judgment given by a Judge—to the Supreme Court constituted of a single Judge;

(c) in any other case—to the Full Court of the Supreme Court.

(3) In the case of a judgment of the Court in its Administrative Appeals Division, an appeal lies as of right on a question of law and by leave of the Supreme Court on a question of fact (but this principle may be displaced or modified by the provisions of the special Act under which the jurisdiction is conferred).

(4) A right of appeal conferred by this section extends to a legal practitioner or witness against whom an order for costs is made.

Reservation of questions of law

44. (1) A Master may reserve a question of law arising in an action for determination by a Judge.

(2) A Judge may reserve any question of law arising in an action for determination by the Full Court of the Supreme Court.

(3) Where a question of law is reserved, the court to which the question is referred may determine the question and give any consequential orders or directions appropriate to the circumstances of the case.

Non-application to criminal proceedings

45. This Part does not apply in respect of appeals and reservations of questions of law in criminal proceedings to which Part XI of the *Criminal Law Consolidation Act 1935* is applicable.

PART VIII
MISCELLANEOUS

Immunities

46. (1) A Judge, Master or assessor has the same privileges and immunities from civil liability as a Judge of the Supreme Court.

(2) A non-judicial officer of the Court incurs no civil or criminal liability for an honest act or omission in carrying out or purportedly carrying out official functions.

Contempt in face of Court

47. A person who—

- (a) interrupts the proceedings of the Court or misbehaves before the Court;
- (b) insults a Judge, Master, assessor or other officer of the Court who is acting in the exercise of official functions;
- (c) refuses, in the face of the Court, to obey a lawful direction of the Court,

is guilty of a contempt of the Court.

Punishment of contempts

48. (1) The Court may punish a contempt as follows:

(a) it may impose a fine;

or

(b) it may commit to prison for a specified term or until the contempt is purged.

(2) This section applies both to contempts committed in the face of the Court and contempts arising from non-compliance with an order, direction, summons or other process of the Court.

Custody of litigant's funds and securities

49. (1) The Registrar is responsible for the proper custody of money paid into the Court and securities delivered to the Court in connection with proceedings in the Court.

(2) The Treasurer guarantees the safe keeping of any such money or security from the time it comes into the Court's custody until it lawfully ceases to be in that custody.

(3) Any liability arising under the guarantee will be satisfied from the General Revenue of the State (which is appropriated to the necessary extent).

(4) Money paid into the Court may be invested in a manner authorized by the rules and any interest or accretions arising from the investment will be dealt with as prescribed by the rules.

(5) Any money in the Court's custody that has remained unclaimed for six years or more may be dealt with under the *Unclaimed Moneys Act 1891*.

Miscellaneous provisions relating to legal process

50. (1) Any process of the Court may be issued or executed on a Sunday as well as any other day.

(2) The validity of process is not affected by the fact that the person who issued it dies or ceases to hold office.

Rules of Court

51. (1) Rules of the Court may be made—

- (a) regulating the business of the Court and the duties of the various officers of the Court;
 - (b) authorizing the Masters to exercise any part of the jurisdiction of the Court;
 - (c) regulating the practice and procedure of the Court;
 - (d) regulating the form in which evidence may be taken;
 - (e) giving law clerks limited rights of appearance before the Court;
 - (f) regulating costs;
- and
- (g) dealing with any other matter necessary or expedient for the effective and efficient operation of the Court.

(2) Rules of the Court may be made by the Chief Judge and any two or more other Judges.

(3) The rules take effect as from the date of publication in the *Gazette* or a later date specified in the rules.

Special rules as to evidence and procedures in administrative appeals

52. In the exercise of a statutory jurisdiction conferred on the Court in its Administrative Appeals Division—

- (a) the Court is not bound by the rules of evidence but may inform itself as it thinks fit;
- and
- (b) the Court must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

Court fees

53. (1) The Governor may, by regulation, prescribe and provide for the payment of fees in relation to proceedings in the Court.

(2) The Court may remit or reduce a fee on account of the poverty of the party by whom the fee is payable or for any other proper reason.

Accessibility of evidence

54. (1) Subject to subsection (2), the Court must, on application by any member of the public and payment of the appropriate fee (if any) fixed by the regulations make available for inspection by the applicant—

- (a) a transcript of evidence taken by the Court in any proceedings;
- (b) any documentary material admitted into evidence in any proceedings;
- (c) any judgment or order given or made by the Court.

(2) Evidentiary material will not be made available for inspection under this section if—

- (a) the evidence was not taken or received in open court;
- (b) the Court has suppressed it from publication;

or

(c) the Court has determined that it is not to be available for inspection under this section.

(3) On payment of the appropriate fee fixed under the regulations, the Court must provide a copy of any material that is available for inspection under this section.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor