

**STATE PROCEEDINGS ACT**

Act 5 of 1953 – 15 October 1954

ARRANGEMENT OF SECTIONS

SECTION

<b>PRELIMINARY</b>	13. Nature of relief
1A. Short title	14. Appeals and stay of execution
1B. Interpretation	15. Scope of Part II
<b>PART I – SUBSTANTIVE LAW</b>	<b>PART III – JUDGMENT AND EXECUTION</b>
1. Liability of State in contract	16. Interest on debts, damages and costs
2. Liability of State in tort	17. Satisfaction of orders against State
3. Provisions as to industrial property	18. Execution by State
4. Joint tortfeasors and contributory negligence	19. Attachment of money payable by State
5. Liability in connection with postal packets	<b>PART IV – MISCELLANEOUS</b>
6. Provisions relating to armed forces	20. Discovery
7. Saving in respect of certain acts	21. Exclusion of proceedings <i>in rem</i>
<b>PART II – JURISDICTION AND PROCEDURE</b>	22. Limitation of actions
8. Civil proceedings in Supreme Court	23. Application to State of certain statutes
9. Civil proceedings in District Court	24. –
10. Parties to proceedings	25. Rules of Court
11. Service of documents	26. Financial provisions
12. Removal and transfer of proceedings	27. Saving

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**STATE PROCEEDINGS ACT**

**PRELIMINARY**

**1A. Short title**

This Act may be cited as the State Proceedings Act.

[S. 1A amended by Act 48 of 1991.]

**1B. Interpretation**

(1) In this Act –

“agent”, in relation to the State, includes an independent contractor employed by the State;

“civil proceedings” includes proceedings for the recovery of fines or penalties, but does not include proceedings before the Supreme Court in the exercise of its jurisdiction on the State side;

“officer”, in relation to the State, includes any public officer;

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

“prescribed” means prescribed by Rules of Court;

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

“statutory duty” means a duty imposed by or under an enactment.

(2) Every reference to this Act includes a reference to Rules of Court.

(3) Any reference in Part III or IV to civil proceedings by or against the State, or to civil proceedings to which the State is a party, includes a reference to civil proceedings to which the Attorney-General, any Government Department, or any public officer is a party.

[S. 1B amended by Act 48 of 1991.]

## **PART I – SUBSTANTIVE LAW**

### **1. Liability of State in contract**

Where a person has a claim against the State in respect of a breach of contract, the claim may be enforced as of right by proceedings taken against the State for that purpose in accordance with this Act.

[S. 1 amended by Act 48 of 1991.]

### **2. Liability of State in tort**

(1) Subject to this Act, the State 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 in respect of—

- (a) torts committed by its employees or agents;
- (b) a breach of those duties which, in law, a person owes to his employees or agents by reason of being their employer; and
- (c) a breach of duties attaching, under the law, to the ownership, occupation, possession or control of property.

(1A) No proceedings shall lie against the State under subsection (1) (a) in respect of an act or omission of an employee or agent of the State, unless the act or omission would, apart from this Act, have given rise to a cause of action in tort against that employee or agent or his estate.

(2) Where the State has a statutory duty which is binding also upon persons, other than the State and its officers, the State shall, subject to this Act, in respect of a failure to comply with that duty, be subject to any liability in tort to which it would be so subject if it were a private person of full age and capacity.

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

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

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

[S. 2 amended by Act 48 of 1991.]

### **3. Provisions as to industrial property**

(1) Where an employee or agent of the State infringes a patent, a registered trade mark or a copyright (including a copyright in a design subsisting under the Patents Act), and the infringement is committed with the authority of the State, civil proceedings in respect of the infringement shall, subject to this Act, lie against the State.

(2) Except as expressly provided by this section, no proceedings shall lie against the State by virtue of this Act in respect of the infringement of a patent, a registered trade mark or a copyright mentioned in subsection (1).

[S. 3 amended by Act 48 of 1991.]

### **4. Joint tortfeasors and contributory negligence**

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

[S. 4 amended by Act 48 of 1991.]

### **5. Liability in connection with postal packets**

(1) Subject to subsections (2) to (5), no proceedings in tort shall lie against the State for anything done or omitted to be done in relation to a postal packet by a person while employed as an employee or agent of the State, or for anything done or omitted to be done in relation to a telegraphic communication by a person while so employed, nor shall an officer of the State be subject, except at the suit of the State, to any civil liability for any of those matters.

(2) (a) Proceedings shall lie against the State under this subsection in respect of loss of, or damage to, a postal packet, in so far as the loss or damage is due to a wrongful act done or a neglect or default committed by a person employed as an employee or agent of the State while performing or purporting to perform his functions as such in relation to the receipt, carriage, delivery or other dealing with the packet.

(b) The amount recoverable in proceedings under this subsection shall not exceed the market value of the packet in question (excluding the market value of any message or information which it bears) at the time when the cause of action arose.

(c) The amount recoverable in any such proceedings shall not in any event exceed the maximum amount which, under post office regulations, is provided as compensation for the class of postal packet concerned.

(d) The State shall not be liable under this subsection in respect of a packet, unless such conditions as are prescribed by post office regulations in relation to that postal packet have been complied with.

(e) For the purposes of any proceedings under this subsection, it shall be presumed, until the contrary is shown on behalf of the State, that the loss of, or damage to, the packet was due to some wrongful act done, or some neglect or default committed, by a person employed as an employee or agent of the State, while performing or purporting to perform his functions as such in relation to the receipt, carriage, delivery or other dealing with the packet.

(3) (a) No relief shall be available under subsection (2) except on a claim by the sender or the addressee of the packet in question, and the sender or addressee of the packet shall be entitled to claim any relief available under subsection (2) in respect of the packet, whether or not he is the person affected by the injury complained of, and to give a good discharge in respect of all claims in respect of the packet under subsection (2).

(b) Where the Court is satisfied, on an application by a person who is not the sender or addressee of the packet, that the sender or the addressee is unable or unwilling to enforce his remedy in respect of the packet under subsection (2), the Court may, upon such terms as to security for costs and otherwise as the Court thinks just, allow that other person to bring proceedings under subsection (2) in the name of the sender or the addressee of the packet.

(c) Any reference in this subsection to the sender or addressee of the packet includes a reference to his heirs or legal representatives.

(4) Where, under subsection (3), a person recovers any money or property which, apart from that subsection, would have been recoverable by some other person, the money or property so recovered shall be held for the benefit of that person.

(5) Regulations may be made under the Postal Services Act for prescribing the conditions to be observed, for the purposes of this section, in relation to registered inland postal packets.

(6) In this section—

“postal packet” has the same meaning as in the Postal Services Act, and includes a telegram;

“sender”, in relation to a postal packet, has such meaning as may be assigned to it by post office regulations.

(7) Any reference in this section to a postal packet includes a reference to the contents of the packet.

[S. 5 amended by Act 48 of 1991.]

## **6. Provisions relating to armed forces**

(1) (a) Nothing done or omitted to be done by a member of the armed forces of the State, while on duty as such, shall subject him or the State to liability in tort for causing the death of another person, or for causing personal injury to another person, in so far as the death or personal injury is due to anything suffered by that other person while he is a member of the armed forces of the State where—

- (i) at the time when that thing is suffered by that other person, he is on duty as a member of the armed forces of the State or is, though not on duty as such, on any land, premises, ship, aircraft or vehicle for the time being used for the purposes of the armed forces of the State; and
- (ii) in the case of a member of the armed forces of the State, the President certifies that his suffering that thing has been, or will be, treated as attributable to service, for the purposes of entitlement to compensation under any enactment relating to the disablement or death of members of the force of which he is a member.

(b) This subsection shall not exempt a member of the armed forces from liability in tort in any case in which the Court is satisfied that the act or omission was not connected with the execution of his duties as a member of those forces.

(2) No proceedings in tort shall lie against the State for death or personal injury due to anything suffered by a member of the armed forces of the State where—

- (a) that thing is suffered by him in consequence of the nature or condition of any land, premises, ship, aircraft, or vehicle referred to in subsection (1) (a) (i), or in consequence of the nature or condition of any equipment or supplies used for the purposes of those forces; and
- (b) in the case of a member of the armed forces of the State, the President certifies as mentioned in subsection (1).

(3) No act or omission of an officer of the State shall subject him to liability in tort for death or personal injury, in so far as the death or personal injury is due to anything suffered by a member of the armed forces of the State being a thing as to which the conditions specified in this section are satisfied.

(4) Where the Secretary to the Cabinet is satisfied that—

- (a) a person was, or was not, on a particular occasion on duty as a member of the armed forces of the State; or
- (b) at any particular time, any land, premises, ship, aircraft, vehicle or equipment was, or was not, used for the purposes of the armed forces,

he may issue a certificate certifying that to be the fact, and any such certificate shall, for the purposes of this section, be conclusive as to the fact which it certifies.

(5) —

[S. 6 amended by Act 48 of 1991.]

## **7. Saving in respect of certain acts**

(1) Nothing in this Part shall extinguish or abridge any power or authority which, if this Act had not been passed, would have been exercisable by virtue of the prerogative of the State or any power or authority conferred on the State by an enactment, and, in particular, nothing in this Part shall extinguish or abridge any power or authority exercisable by the State, in time of peace or of war, for the purpose of the defence of the Republic or of training, or maintaining the efficiency of, any of the armed forces of the State.

(2) Where, in any proceedings under this Act, it is material to determine whether anything was properly done, or omitted to be done, in the exercise of the prerogative of the State, the President may, where he is satisfied that the act or omission was necessary for a purpose mentioned in subsection (1), issue a certificate to the effect that the act or omission was necessary for that purpose, and the certificate shall in those proceedings be conclusive as to the matter so certified.

[S. 7 amended by Act 48 of 1991.]

## **PART II – JURISDICTION AND PROCEDURE**

### **8. Civil proceedings in Supreme Court**

Subject to this Act, all civil proceedings by or against the State in the Supreme Court shall be instituted and proceeded with in accordance with Rules of Court made under this Act.

[S. 8 amended by Act 48 of 1991.]

### **9. Civil proceedings in District Court**

(1) Subject to this Act and to any enactment limiting the jurisdiction of a District Court (whether by reference to the subject-matter of the proceedings to be brought or the amount sought to be recovered in the proceedings or otherwise), any civil proceedings against the State may be instituted in a District Court.

(2) Any proceedings, by or against the State in a District Court, shall be instituted and proceeded with in accordance with rules made under this Act and not otherwise.

[S. 9 amended by Act 48 of 1991.]

#### **10. Parties to proceedings**

(1) (a) The Government shall publish a list specifying the several Government Departments which are authorised departments for the purposes of this Act, and the name and address for service of the person who is, or is acting for the purposes of this Act as, the attorney for each such department.

(b) A document purporting to be a copy of a list published under this section in the *Gazette* shall, in any legal proceedings, be received as evidence for the purposes of establishing which departments are authorised departments for the purposes of this Act, and what person is, or is acting for the purposes of this Act as, the attorney for any department.

(2) Civil proceedings by the State may be instituted either by an authorised Government Department in its own name or by the Attorney-General.

(3) Civil proceedings against the State shall be instituted against the appropriate authorised department, or, if none of the authorised departments is appropriate or the person instituting the proceedings has a reasonable doubt whether any and, if so, which, of those departments is appropriate, against the Attorney-General.

(4) (a) Where civil proceedings against the State are instituted against the Attorney-General, an application may, at any stage of the proceedings, be made to the Court by or on behalf of the Attorney-General to have an authorised department specified in the application substituted for him as defendant to the proceedings, and where any such proceedings are brought against an authorised department, an application may, at any stage of the proceedings, be made to the Court on behalf of that department to have the Attorney-General or an authorised department specified in the application substituted for the applicant, as the defendant to the proceedings.

(b) On any such application, the Court may, if it thinks fit, make an order granting the application on such terms as the Court thinks just, and, on such an order being made, the proceedings shall continue as if they had been commenced against the Department specified in the order, or, as the case may require, against the Attorney-General.

(5) No proceedings instituted in accordance with this Part by or against the Attorney-General or an authorised department shall abate or be affected by a change in the person holding the office of Attorney-General or in the person or body of persons constituting the department.

[S. 10 amended by Act 48 of 1991.]

#### **11. Service of documents**

All documents required to be served on the State for the purpose of, or in connection with, civil proceedings by or against the State shall, if those

proceedings are by or against an authorised department, be served on the attorney, if any, for that Department, or the person, if any, acting for the purposes of this Act as attorney for that Department, or if there is no such attorney and no person so acting or if the proceedings are brought by or against the Attorney-General, on a State Attorney.

[S. 11 amended by Act 48 of 1991.]

## **12. Removal and transfer of proceedings**

(1) Where, in a case where proceedings are instituted against the State in a District Court, an application in that behalf is made by the State to the Supreme Court, and there is produced to the Court a certificate of the Attorney-General to the effect that the proceedings may involve an important question of law, or may be decisive of other cases arising out of the same matter, or are for other reasons more fit to be tried in the Supreme Court, the proceedings shall be removed into the Supreme Court.

(2) Where proceedings have been removed into the Supreme Court on the production of a certificate under subsection (1), and it appears to the Court by which the proceedings are tried that the removal has occasioned additional expense to the person by whom the proceedings are brought, the Court may take account of the additional expenses so occasioned in exercising its powers in regard to the award of costs.

[S. 12 amended by Act 48 of 1991.]

## **13. Nature of relief**

(1) In civil proceedings by or against the State, the Court may, subject to this Act, make such orders as it may make in proceedings between subjects, and otherwise give such appropriate relief as the case may require.

(2) (a) Where, in proceedings against the State, any 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 proceedings against the State for the recovery of land or other property, the Court shall not make an order for the recovery of the land or the delivery of the property, but may instead make an order declaring that the plaintiff is entitled as against the State to the land or property or to its possession.

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

[S. 13 amended by Act 48 of 1991.]

## **14. Appeals and stay of execution**

Subject to this Act, all enactments and Rules of Court relating to appeals and stay of execution shall, with such necessary modifications, apply to civil proceedings by or against the State as they apply to proceedings between subjects.

[S. 14 amended by Act 48 of 1991.]



## 15. Scope of Part II

(1) Subject to subsection (3), a reference in this Part to civil proceedings by the State shall be construed as a reference to—

- (a) proceedings for the enforcement or vindication of a right or the obtaining of relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by proceedings available to the State;
- (b) proceedings for the enforcement or vindication of a right or the obtaining of relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by an action at the suit of an authorised department or any officer of the State as such; and
- (c) all such proceedings as the State is entitled to bring by virtue of this Act,

and “civil proceedings by or against the State” shall be construed accordingly.

(2) Subject to subsection (3), a reference in this Part to civil proceedings against the State shall be construed as a reference to—

- (a) proceedings for the enforcement or vindication of a right or the obtaining of relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by any proceedings available to the subject;
- (b) proceedings for the enforcement or vindication of a right or the obtaining of relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by an action against the Government, an authorised department, or any officer of the State as such; and
- (c) all such proceedings as any person is entitled to bring against the State by virtue of this Act,

and “civil proceedings by or against the State” shall be construed accordingly.

(3) Notwithstanding subsections (2) and (3), this Part shall not have effect with respect to proceedings by or against the Curator.

[S. 15 amended by Act 48 of 1991.]

## PART III – JUDGMENT AND EXECUTION

### 16. Interest on debts, damages and costs

(1) Any enactment relating to the payment of interest on judgment debts in proceedings between subjects shall apply to judgment debts due from or to the State.

(2) Where costs are awarded to or against the State in the Supreme Court, interest shall be payable on those costs unless the Court otherwise orders, and any interest so payable shall be at the same rate as that at which interest is payable on judgment debts due from or to the State.

(3) Any enactment which empowers the Court to award interest on debts and damages shall apply to judgments given in proceedings by and against the State.

[S. 16 amended by Act 48 of 1991.]

#### **17. Satisfaction of orders against State**

(1) (a) Where in civil proceedings by or against the State, or in connection with an arbitration to which the State is a party, an order (including an order for costs) is made by a Court in favour of any person against the State or against an authorised department or against an officer of the State as such, the proper officer of the Court shall, on an application in that behalf made by or on behalf of that person at any time after 21 days from the date of the order or, where the order provides for the payment of costs and the costs require to be taxed, at any time after the costs have been taxed, whichever is later, issue to that person a certificate in the prescribed form containing particulars of the order.

(b) Where the Court so directs, a separate certificate shall be issued with respect to any costs ordered to be paid to the applicant.

(2) A copy of a certificate issued under this section may be served, by the person in whose favour the order is made, on the attorney for the State or for the authorised department or officer concerned.

(3) (a) Where the order provides for the payment of money by way of damages or otherwise, or of costs, the certificate shall state the amount so payable, and the Accountant-General shall, subject to this Act, pay to the person entitled, or to his attorney, the amount appearing by the certificate to be due to him together with any interest lawfully due on it.

(b) The Court by which an order under paragraph (a) is made, or any Court to which an appeal against the order lies, may direct that, pending an appeal or otherwise, payment of the amount so payable shall be suspended, and if the certificate has not been issued, may order any such directions to be inserted in it.

(4) Subject to this section, no execution or attachment or similar process shall be issued out of any Court for enforcing payment by the State of any such money or costs, and no person shall be individually liable under an order for the payment by the State or an authorised department, or an officer of the State as such, of any such money or costs.

(5) Notwithstanding any other enactment, a certificate issued under subsection (1) shall be exempt from any fee, charge or duty.

[S. 17 amended by Act 48 of 1991.]

#### **18. Execution by State**

(1) Subject to this Act, an order made in favour of the State against a person, in civil proceedings to which the State is a party, may be enforced in the same manner as an order made in an action between subjects.

(2) —

(3) Nothing in this section shall affect any procedure available for enforcing an order made in favour of the State in proceedings brought by the State for the recovery of any fine or penalty, or the forfeiture or condemnation of any goods, or the forfeiture of any ship or any share in a ship.

[S. 18 amended by Act 48 of 1991.]

### **19. Attachment of money payable by State**

(1) (a) Where any money is payable by the State to a person who, under an order of a Court, is liable to pay money to another person, and that other person would, if the money so payable by the State were money payable by a subject, be entitled, under Rules of Court, to obtain an order for the attachment of the money as a debt due or accruing due, or an order for the appointment of a sequestrator or receiver to receive the money on his behalf, the Supreme Court may, subject to this Act, and in accordance with Rules of Court, make an order restraining the first mentioned person from receiving that money and directing payment to that other person, or to the sequestrator or receiver.

(b) No order shall be made under paragraph (a) in respect of—

- (i) wages or salary payable to an officer of the State as such;
- (ii) money which is subject to an enactment prohibiting or restricting assignment or charging or taking in execution; or
- (iii) money payable by the State to a person on account of a deposit in the Mauritius Post and Co-operative Bank Limited.

(2) Subsection (1) shall, so far as it relates to forms of relief falling within the jurisdiction of a District Court, have effect in relation to District Courts as it has effect in relation to the Supreme Court.

[S. 19 amended by Act 48 of 1991.]

## **PART IV – MISCELLANEOUS**

### **20. Discovery**

(1) (a) Subject to and in accordance with Rules of Court, in civil proceedings in the Supreme Court or a District Court to which the State is a party, the State may be required by the Court to make discovery of documents and produce documents for inspection.

(b) This section shall be without prejudice to any rule of law which authorises or requires the withholding of a document or the refusal to answer a question on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest.

(2) Without prejudice to subsection (1) (a), 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 President, it would be injurious to the public interest to disclose the existence of the document.

[S. 20 amended by Act 48 of 1991.]

**21. Exclusion of proceedings *in rem***

(1) Nothing in this Act shall authorise proceedings *in rem* in respect of a claim against the State, or the arrest, detention or sale of any of the State's ships or aircraft, or of any cargo or other property belonging to the State, 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 Supreme Court, or in a District 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 an application by the State 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 State, order that the proceedings shall be treated as if they were *in personam*, duly instituted against the State in accordance with 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 on such terms, if any, as the Court thinks just, and where the Court makes any such order it may make such consequential order as it thinks expedient.

[S. 21 amended by Act 48 of 1991.]

**22. Limitation of actions**

Nothing in this Act shall prejudice the right of the State to rely on the law relating to the limitation of time for bringing proceedings against a public authority, or against a person acting in aid or assistance of any such public authority.

[S. 22 amended by Act 48 of 1991.]

**23. Application to State of certain statutes**

This Act shall not prejudice the right of the State to take advantage of an enactment although it is not named in the enactment and, in civil proceedings against the State, an enactment which could, if the proceedings were between subjects, be relied on by the defendant as a defence to the proceedings may, subject to any express provision to the contrary, be so relied on by the State.

[S. 23 amended by Act 48 of 1991.]

**24. —**

**25. Rules of Court**

(1) Any power to make Rules of Court shall include the power to make 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 State in substitution for, or by way of addition to, any rules applying to proceedings between subjects.

(2) Rules of Court may provide—

- (a) for service or notice of process, in the case of proceedings by the State against persons who are not resident in Mauritius;
- (b) that, where civil proceedings are brought against the State in accordance with this Act, the plaintiff shall, before the State is required to take a step in the proceedings, provide the State with such information as the State may reasonably require as to the circumstances in which it is alleged that the liability of the State has arisen, and as to the departments and officers of the State concerned;
- (c) that in the case of proceedings against the State, the plaintiff shall not enter judgment against the State in default of appearance of pleading without the leave of the Court, to be obtained on an application of which notice has been given to the State;
- (d) for excepting proceedings brought against the State from the operation of a Rule of Court providing for summary judgment without trial, and for enabling such proceedings to be put, in proper cases, into a special list which may be kept for the trial of short causes, in which leave to defend is given under any such Rule of Court;
- (e) for enabling evidence to be taken on commission in proceedings by or against the State; and
- (f)
  - (i) that a person shall not be entitled to avail himself of a set-off or counterclaim in proceedings by the State for the recovery of taxes, duties or penalties, or to avail himself, in proceedings of any other nature by the State, of a set-off or counterclaim arising out of a right or claim to repayment in respect of any taxes, duties or penalties;
  - (ii) that a person shall not be entitled, without the leave of the Court, to avail himself of a set-off or counterclaim in proceedings by the State, if the subject matter of the set-off or counterclaim does not relate to the authorised department in the name of which the proceedings are brought or the proceedings are brought in the name of the Attorney-General;
  - (iii) that the State, when sued in the name of an authorised department, shall not, without the leave of the Court, be entitled to avail itself of a set-off or counterclaim if the subject matter of the set-off or counterclaim does not relate to that department; and
  - (iv) that the State, when sued in the name of the Attorney-General, shall not be entitled to avail itself of a set-off or counterclaim without the leave of the Court.

(3) Rules of Court may provide for appeals to the Supreme Court, whether by way of case stated or otherwise, under enactments relating to the revenue.

[S. 25 amended by Act 48 of 1991.]

## 26. Financial provisions

(1) Any expenditure incurred by or on behalf of the Government by reason of this Act shall be defrayed out of money provided by the Assembly.

(2) Any sum payable to the Government by reason of this Act shall be paid into the Consolidated Fund.

## 27. Saving

(1) Nothing in this Act shall apply to proceedings by or against, or authorise proceedings in tort to be brought against, the President in his private capacity.

(2) Except as expressly provided, 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 Supreme Court as a prize Court or to any criminal proceedings;
- (b) authorise proceedings to be taken against the State under this Act in respect of any alleged liability of the State arising otherwise than in respect of the Government of Mauritius, or affect proceedings against the State in respect of any such alleged liability;
- (c) affect any proceedings by the State otherwise than in respect of the Government of Mauritius;
- (d) subject the State to any greater liabilities in respect of the acts or omissions of an independent contractor employed by the State than those to which the State would be subject in respect of such acts or omissions if it were a private person;
- (e) affect a rule of evidence or a presumption relating to the extent to which the State is bound by an enactment; or
- (f) affect a right of the State to control or otherwise intervene in proceedings affecting its rights, property or profits,

and, without prejudice to paragraphs (a) to (f), Part III shall not apply to the State except in respect of the Government of Mauritius.

(3) A certificate of the Government to the effect that any alleged liability of the State arises otherwise than in respect of the Government of Mauritius shall, for the purposes of this Act, be conclusive as to the matter so certified.

(4) (a) Where a property vests in the State by virtue of a rule of law which operates independently of the acts or the intentions of the State, the State shall not, by virtue of this Act, be subject to any liability in tort by reason only of the property being so vested.

(b) This subsection shall be without prejudice to the liability of the State under this Act in respect of any period after the State or a person acting for the State has in fact taken possession or control of any such property, or entered into occupation.

(5) This Act shall not limit the discretion of the Court to grant relief by way of *mandamus* in cases in which such relief might have been granted before 15 October 1954.

[S. 27 amended by Act 48 of 1991.]