



Tonga

CROWN PROCEEDINGS ACT

1988 Revised Edition



CROWN PROCEEDINGS ACT

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CROWN PROCEEDINGS ACT

Acts Nos 14 of 1961, 24 of 1978, 21 of 1986, 46 of 1988

AN ACT TO MAKE PROVISIONS FOR SUITS BY AND AGAINST THE KINGDOM OF TONGA

Commencement [2nd November, 1961]

1 Short title.

This Act may be cited as the Crown Proceedings Act.

2 Interpretation

In this Act, unless the contrary intention appears—

“**judgment**” includes any judgment, decree, order or sentence;

“**suit**” includes any action or original proceedings between the parties.

3 Suits by the Kingdom

Suits on behalf of the Kingdom of Tonga may be brought in the name of the Kingdom of Tonga by the Attorney-General or by any person appointed by him in that behalf. (*Amended by Act 46 of 1988.*)

4 Liability of the Kingdom

Subject to the provisions of this Act, the Kingdom of Tonga 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—

- (a) in respect of torts committed by its servants or agents;
 - (b) in respect of any breach of those duties which a person owes to his servants or agents by reason of being their employer; and
 - (c) in respect of any breach of the duties attaching to the ownership, occupation, possession or control of property; but no proceedings shall lie against the Kingdom of Tonga by virtue of paragraph (a) of this section in respect of any act or omission of a servant or agent of the Kingdom of Tonga unless the act or omission would apart from the provisions of this Act have given rise to a cause of action in tort against that servant or agent or his estate.
- (2) No proceedings shall lie against the Kingdom 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 of a judicial nature vested in him or any responsibilities which he has in connection with the execution of judicial process. *(Inserted by Act 21 of 1986)*

5 Suits against the Kingdom

- (1) A person making any claim against the Kingdom of Tonga whether in contract or tort, or for any other civil remedy, may in respect of the claim bring a suit against the Kingdom of Tonga in that name and style in the appropriate Court. *(Amended by Act 24 of 1978)*
- (2) Subject to this Act, all suits which are taken on behalf of or brought against the Kingdom under this Act shall be instituted and proceeded with in accordance with Rules of Court of the appropriate Court. *(Inserted by Act 21 of 1986)*

6 Servicing of process where Kingdom is party

Where the Kingdom of Tonga is a party to a suit, all process in the suit required to be served upon that party shall be served upon the Solicitor-General of the Kingdom, or in his absence upon the Chief Secretary and Secretary to Cabinet.

7 Rights of the parties the same

In any suits to which the Kingdom of Tonga is a party, the rights of parties shall as nearly as possible be the same, and judgment may be given and costs awarded on either side, as in a suit between subject and subject.

8 No execution against the Kingdom

No execution or attachment, or process in the nature thereof, shall be issued against the property or revenues of the Kingdom of Tonga in any suit; but when any judgment is given against the Kingdom of Tonga, the Registrar of the Supreme Court shall give to the party in whose favour a judgment is given a certificate in the form in the Schedule to this Act.

9 Performance by the Kingdom

On receipt of the certificate of a judgment against the Kingdom of Tonga, the Minister of Finance shall satisfy the judgment out of the moneys legally available.

10 Execution by the Kingdom

When in any suit a judgment is given in favour of the Kingdom of Tonga and against any person, the Kingdom of Tonga may enforce the judgment against that person by execution, attachment, or other process as could be had in a suit between subject and subject.

THE SCHEDULE

FORM OF CERTIFICATE OF JUDGMENT

Smith v Kingdom of Tonga (or as the case may be)

I hereby certify that A.B. of, did on theday ofobtain a judgment of the Supreme Court (or of a Magistrate as the case may be) in his favour, and that such judgment the sum of \$.....was awarded to him.

CLERK OF THE SUPREME COURT.