



**BERMUDA
1897 : 11**

PROTECTION OF JUSTICES ACT 1897

ARRANGEMENT OF SECTIONS

- 1 *[Repealed]*
- 2 *[Repealed]*
- 3 *[Repealed]*
- 4 *[Repealed]*
- 5 Application to Supreme Court to enforce doing of act
- 6 *[Repealed]*
- 7 *[Repealed]*
- 8 *[Repealed]*
- 9 *[Repealed]*
- 10 *[Repealed]*
- 11 *[Repealed]*
- 12 *[Repealed]*
- 13 *[Repealed]*
- 14 Affidavit by magistrate
- 15 Supreme Court to take affidavit into consideration
- 16 Savings
- 17 Statement of case
- 18 Recognizance to prosecute appeal
- 19 Application frivolous
- 20 Application to Supreme Court
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- 23 Power of Judge
- 24 Enforcement of order of Supreme Court by court of summary jurisdiction
- 25 Order of certiorari not required

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- 26 Exclusion of appeals under other Acts
- 27 Rules

SCHEDULE [deleted by 1971:111]

[18 December 1897]

[preamble and words of enactment omitted]

- 1 *[Repealed by 2009:31 s.3(1) effective 14 July 2009]*
- 2 *[Repealed by 2009:31 s.3(1) effective 14 July 2009]*
- 3 *[Repealed by 2009:31 s.3(1) effective 14 July 2009]*
- 4 *[Repealed by 2009:31 s.3(1) effective 14 July 2009]*

Application to Supreme Court to enforce doing of act

5 In all cases where a Justice of the Peace refuses to do any act relating to the duties of his or their office or offices as such Justice or Justices, it shall be lawful for the party requiring such act to be done to apply to the Supreme Court upon an affidavit of the facts for a rule calling upon such Justice, and also the party to be affected by such act, to show cause why such act should not be done; and if after due service of such rule good cause is not shown against it the Supreme Court may make the rule absolute, with or without or upon payment of costs as to the Supreme Court seems meet; and the said Justice on being served with such rule absolute shall obey the rule, and shall do the act required; and no action or proceeding whatsoever shall be commenced or prosecuted against any such Justice for having obeyed such rule, and done such act so thereby required as aforesaid.

- 6 *[Repealed by 2009:31 s.3(1) effective 14 July 2009]*
- 7 *[Repealed by 2009:31 s.3(1) effective 14 July 2009]*
- 8 *[Repealed by 2009:31 s.3(1) effective 14 July 2009]*
- 9 *[Repealed by 2009:31 s.3(1) effective 14 July 2009]*
- 10 *[Repealed by 2009:31 s.3(1) effective 14 July 2009]*
- 11 *[Repealed by 2009:31 s.3(1) effective 14 July 2009]*
- 12 *[Repealed by 2009:31 s.3(1) effective 14 July 2009]*
- 13 *[Repealed by 2009:31 s.3(1) effective 14 July 2009]*

Affidavit by magistrate

14 Whenever the decision of any magistrate is called in question in the Supreme Court by a rule to show cause or other process issued upon an *ex parte* application it shall be lawful for the magistrate to make and file in the Supreme Court an affidavit setting forth the grounds of the decision so brought under review, and any facts which he may consider to have a material bearing upon the question at issue and any such affidavit may be sworn before any Commissioner of the Supreme Court authorized to take oaths therein and may be forwarded by post to the Registrar for the purpose of being filed.

Supreme Court to take affidavit into consideration

15 Whenever any such affidavit is filed as aforesaid the Supreme Court shall, before making the rule absolute against the magistrate, or otherwise determining the matter so as to overrule or set aside the acts or decisions of the magistrate to which the application relates, take into consideration the matters set forth in such affidavit notwithstanding that no counsel appears on behalf of the magistrate.

Savings

16 Nothing in this Act shall apply to, or affect, any proceeding or procedure in any civil suit before any court of summary jurisdiction or any action for the recovery of any debt or damages or for any rent in arrears or any proceeding under the Landlord and Tenant Act 1974 [*title 26 item 41*].

Statement of case

17 After the hearing and determination by a court of summary jurisdiction of any complaint in a civil cause or matter which it has power to determine in a summary way by any law now in force or hereafter to be made, either party to the proceeding before the court of summary jurisdiction may, if dissatisfied with the said determination as being erroneous in point of law, apply in writing within five days after the same to the court of summary jurisdiction, to state and sign a case setting forth the facts and the grounds of such determination for the opinion thereon of the Supreme Court; and the party applying (hereinafter in this Act referred to as "the appellant") shall within three days after receiving such case transmit the case to the Supreme Court, first giving notice in writing of such appeal, with a copy of the case so stated and signed, to the other party to the proceeding in which the determination was given (hereinafter in this Act referred to as "respondent").

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Recognizance to prosecute appeal

18 The appellant, at the time of making such application, and before a case is stated and delivered to him by the court of summary jurisdiction, shall in every instance enter into a recognizance before the court, with or without surety or sureties as the court may direct, and in such sum as the court may think fit, conditioned to prosecute such appeal without delay, and to submit to the judgment of the Supreme Court and to pay such costs as may be awarded by the Supreme Court; and the appellant shall at the same time, and before he shall be entitled to have the case delivered to him, pay to the court of summary jurisdiction the proper fees, prescribed under the Court Fees and Expenses Act 1971 [*title 8 item 7*]:

Provided that when any application made by any appellant is decided in his favour then any such costs or fees as may have been paid by the appellant, shall be repaid to him.

Application frivolous

19 If the magistrate composing the court of summary jurisdiction is of opinion that the application is merely frivolous, but not otherwise, he may refuse to state a case, and shall, on the request of the appellant, sign and deliver to him a certificate of such refusal:

Provided that the magistrate shall not refuse to state a case where the application for that purpose is made to him by, or under the direction of the Attorney General.

Application to Supreme Court

20 Where the magistrate refuses to state a case as aforesaid it shall be lawful for the appellant to apply to the Supreme Court, at any general or special session, upon an affidavit of the facts for a rule calling upon the magistrate, and also upon the respondent, to show cause why a case should not be stated; and the Supreme Court may make the rule absolute or may discharge the rule, with or without payment of costs, as to the Court seems meet; and the magistrate, on being served with such rule absolute, shall, upon the appellant entering into such recognizance as is hereinbefore provided, state a case accordingly.

Determination of questions of law arising on case stated

21 The Supreme Court for whose opinion a case is transmitted under this Act shall hear and determine the question or questions of law arising thereon and shall thereupon reverse, affirm or amend the determination in respect of which the case has been stated, or shall remit the matter to the court of summary jurisdiction, with the opinion of the Supreme Court thereon, or may make such other order in relation to the matter, and may make such order, as to the Supreme Court may seem fit, and all such orders shall be final and conclusive on all parties.

Sending case back for amendment

22 The Supreme Court for the opinion of which a case is stated shall have power, if it thinks fit, to cause the case to be sent back for amendment; and thereupon the case shall be amended accordingly, and judgment shall be delivered after it has been amended.

Power of Judge

23 The authority and jurisdiction hereby vested in the Supreme Court for the opinion of which a case is stated under this Act shall and may (subject to any rules and orders of the Supreme Court in relation thereto) be exercised by a judge.

Enforcement of order of Supreme Court by court of summary jurisdiction

24 After the decision of the Supreme Court in relation to any case stated for its opinion under this Act the court of summary jurisdiction in relation to whose determination the case has been stated shall have the same authority to enforce any order which has been affirmed, amended or made by the Supreme Court as the court of summary jurisdiction would have had to enforce its determination if that determination had not been appealed against; and no action or proceeding whatsoever shall be commenced or had against the magistrate composing that court of summary jurisdiction for enforcing such order by reason of any defect in the order.

Order of certiorari not required

25 No writ of certiorari or other writ shall be required for the removal of any order or other determination in relation to which a case is stated under this Act, or otherwise, for obtaining the judgment or determination of the Supreme Court on such case under this Act.

Exclusion of appeals under other Acts

26 Any person who appeals under this Act against any determination of a court of summary jurisdiction from which he is by law entitled to appeal to the Supreme Court under any other Act shall be taken to have abandoned such last-mentioned right of appeal finally and conclusively to all intents and purposes.

Rules

27 The Supreme Court may from time to time, and as often as it sees occasion, make, and alter, rules and orders to regulate the practice and proceedings in reference to the cases hereinbefore mentioned.

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SCHEDULE

[repealed by 1971:111]

[The Act, originally of limited duration, was continued in force indefinitely by 1912:31]

[Amended by:

1948 : 25

1951 : 93

1952 : 5

1952 : 11

1967 : 187

1971 : 111

2009 : 31]