



BRITISH INDIAN OCEAN TERRITORY

**REVISED ORDINANCES OF THE
BRITISH INDIAN OCEAN TERRITORY**

THE COURTS ORDINANCE 1983

CHAPTER B.1

Revised Edition

Showing the law as at 1 September 2020

Published by Authority

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This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Ordinance 2015 and contains a consolidation of the following laws:

The Courts Ordinance 1983 - Ordinance No.3 of 1983

As amended by:

Ordinance No.3 of 1985
Ordinance No.1 of 1986
Ordinance No.3 of 2008
Ordinance No.1 of 2009
Ordinance No.5 of 2014
Ordinance No.1 of 2015
Ordinance No.4 of 2016
Ordinance No.3 of 2019
Ordinance No.5 of 2019
Ordinance No.1 of 2020

The following revised rules, notices and proclamations have been issued in pursuance of this Ordinance:

Supreme Court (Procedure and Practice) Rules 1984	RRBIOT, c.B.1
Magistrate's Court Fees Rules 1985	RRBIOT, c.B.2
Courts (Civil Appeals from the Magistrate's Court) Rules 1985	RRBIOT, c.B.4
Magistrate's Court (Civil Proceedings) Rules 1986	RRBIOT, c.B.5
The Appointment of Police Officers Delegation Notice 1995	RRBIOT, c.I.2
Proclamation No.1 of 2007	RRBIOT, c.C.4
Proclamation No.1 of 2008	RRBIOT, c.C.6
The Supreme Court (Location of Sub-Registry) Notice 2015	RRBIOT, c.B.8
The Magistrate's Court (Location) Notice 2015	RRBIOT, c.B.9

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**REVISED ORDINANCES OF THE BRITISH INDIAN OCEAN
TERRITORY**

THE COURTS ORDINANCE 1983

CHAPTER B.1

ARRANGEMENT OF SECTIONS

Section		Page
	PART I – GENERAL	
1.	Citation.	6
2.	Courts.	6
3.	Law to be applied.	6
4.	Declaration as to application of laws of England.	7
5.	Law of evidence.	7
	PART II – SUPREME COURT	
	A. Jurisdiction, Powers and Constitution.	
6.	Jurisdiction of Supreme Court.	8
7.	Appellate jurisdiction.	8
8.	Extension of jurisdiction.	8
9.	Constitution of Supreme Court.	8
	B. Appeals.	
10.	Appeals in civil matters.	9
11.	Case stated in civil matters.	10
12.	Appeals in criminal matters.	10
	C. Practice and Procedure.	
13.	Practice and procedure.	10
14.	Rules of court.	10
	D. Officers of the Supreme Court.	
15.	Registrar and other officers of Supreme Court.	11
16.	Powers and functions of Registrar.	11
17.	Appointment of ushers.	11
18.	<i>Repealed.</i>	11

19.	Duties of ushers.	12
20.	Ushers may serve extra-judicial process.	12
21.	Ushers bound to serve documents when requested.	12
22.	Ushers may be called upon to serve process of Magistrate's Court.	12
23.	Offences by ushers.	12
24.	Suspension and dismissal of ushers.	12
25.	Officers of Supreme Court under authority of Chief Justice and Registrar.	13
	PART III – MAGISTRATE'S COURT	
	A. General.	
26.	Definition.	13
27.	Appointment of Magistrates.	13
28.	Appointment of Senior Magistrate.	13
29.	Extent of jurisdiction and constitution of bench.	14
	B. Jurisdiction and Powers.	
30.	Jurisdiction in civil matters.	14
31.	Jurisdiction in criminal matters.	14
32.	Sittings.	14
33.	Court house.	15
34.	Occasional courts.	15
	C. Staff.	
35.	Appointment of clerk of court.	15
36.	Clerical work of court.	15
37.	Issue of process; books, records, etc.	15
38.	Magistrate to tax costs.	15
39.	Process.	15
40.	Summons to witness.	16
41.	Power to punish for misbehaviour before court.	16
	D. Civil matters.	
42.	Jurisdiction.	16
43.	Provisions relating to or affecting jurisdiction.	18
44.	Valuation of claims.	19
45.	Costs.	19
46.	Execution of judgment or order of court.	20
47.	Appeals.	20
48.	Rules of court.	20
	PART IV – LEGAL PRACTITIONERS	

49.	Licensing of counsel and solicitors.	21
50.	Suspension and revocation of licences.	21
51.	Appeal.	22
	PART V – POLICE OFFICERS	
52.	Appointment and powers of Police Officers.	22
	SCHEDULE I – Judicial Oath (or Affirmation)	23
	SCHEDULE II – Oath (or Affirmation) of Office	23

**REVISED ORDINANCES OF THE BRITISH INDIAN OCEAN
TERRITORY**

THE COURTS ORDINANCE 1983

CHAPTER B.1

An Ordinance to make provision for the administration of justice in respect of the British Indian Ocean Territory and to provide for matters incidental thereto and connected therewith.

PART I - GENERAL

Citation.

1. This Ordinance may be cited as the Courts Ordinance 1983, ROBIOT c.B.1.

Courts.

2. The courts for the administration of justice in the Territory are the Supreme Court, the Court of Appeal, the Magistrate's Court and the Coroner's Court.

Law to be applied.

3. (1) Subject to and so far as it is not inconsistent with any specific law for the time being in force in the Territory, and subject to subsections (3) and (4) of this section and to section 4, the law to be applied as part of the law of the Territory shall be the law of England as from time to time in force in England and the rules of equity as from time to time applied in England:

Provided that the said law of England shall apply in the Territory only so far as it is applicable and suitable to local circumstances, and shall be construed with such modifications, adaptations, qualifications and exceptions as local circumstances render necessary.

- (2) In this section **specific law** means –

- (a) any provision made by or under a law (including this Ordinance) made in pursuance of section 11 of the British Indian Ocean Territory Order 1965, section 9 of the British Indian Ocean Territory Order 1976, section 10 of the British Indian Ocean Territory (Constitution) Order 2004, or any similar section superseding the last mentioned section;

(b) any provision of an Act of Parliament of the United Kingdom which of its own force or by virtue of an Order in Council or other instrument made thereunder applies to or extends to the Territory;

(c) any statutory instrument (as defined in the Statutory Instruments Act 1946) or prerogative Order in Council which applies to or extends to the Territory.

(3) *Deleted on revision.*

(4) In any proceedings commenced before 1st February 1984, the law to be applied shall be the law in force immediately before 1st February 1984, unless all the parties to the proceedings agree that the law to be applied shall be as in subsections (1) and (2) of this section.

Declaration as to application of laws of England.

4. (1) The Commissioner may declare that any United Kingdom enactment, statutory instrument or prerogative Order in Council, other than a provision referred to in section 3(2)(b) or (c), does or does not form part of the law of the Territory.

(2) Any such declaration, on publication in accordance with section 10 of the British Indian Ocean Territory (Constitution) Order 2004, shall be conclusive on any question (other than the question whether it is a provision referred to in section 3(2)(b) or (c)) whether or not the enactment, statutory instrument or prerogative Order in Council forms part of the law of the Territory in respect of any right acquired or liability incurred, or anything done, omitted to be done or occurring, in or in relation to the Territory after such publication, but shall have no effect in relation to –

(a) any decision given before such publication by a court having jurisdiction in respect of the Territory, or any right acquired or liability incurred as a result of such a decision;

(b) any other right acquired or liability incurred, or anything done, omitted to be done or occurring, in or in relation to the Territory before such publication; or

(c) any proceedings commenced in any such court before such publication.

Law of evidence.

5. In all proceedings before the courts of the Territory the same law and rules of evidence shall be applied as are from time to time applied by the courts in England.

PART II – SUPREME COURT

A. Jurisdiction, Powers and Constitution.

Jurisdiction of Supreme Court.

6. The Supreme Court shall be a superior court of record with unlimited jurisdiction to hear and determine any civil or criminal proceedings under any law and with all the powers, privileges and authority which is vested in or capable of being exercised by the High Court of Justice in England.

Appellate jurisdiction.

7. (1) The Supreme Court shall have power to hear and decide appeals from the Magistrate's Court and shall exercise general powers of supervision over that court and may at any time call for and inspect its records.

(2) The Supreme Court shall also have power to hear and decide appeals from any other bodies and persons as provided by any law now in force or to be enacted.

Extent of jurisdiction.

8. The jurisdiction of the Supreme Court in all its functions shall extend throughout the Territory:

Provided that this section shall not be construed as diminishing any jurisdiction of the Supreme Court relating to persons being, or to matters arising, outside the Territory.

Constitution of Supreme Court.

9. (1) There shall be a Judge of the Supreme Court who shall be called the Chief Justice.

(2) The Chief Justice shall be appointed by the Commissioner in accordance with instructions given by Her Majesty through a Secretary of State and shall hold office on such terms as the Commissioner shall, in accordance with such instructions, prescribe.

(3) A person shall not be qualified for appointment as Chief Justice unless –

(a) he is, or has been, a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in the Republic of Ireland, or a court having jurisdiction in appeals from any such court; or

(b) he is entitled to practise as an advocate or as a solicitor in such a court.

(4) For the purposes of subsection (3), a person shall be regarded as entitled to practise as an advocate or as a solicitor if he has been called, enrolled or otherwise admitted as such (and has not subsequently been disbarred or removed from the roll of advocates or solicitors) despite an existence of the following circumstances –

(a) he holds or acts in any office the holder of which is, by reason of his office, precluded from practising in a court; or

(b) he does not hold a practising certificate or has not satisfied any other like condition of his being permitted to practise.

(5) At any time when the office of Chief Justice is vacant or the person holding that office is for any reason unable to perform the functions of that office, those functions shall be performed by such person qualified for appointment as Chief Justice as may from time to time be designated in that behalf by the Commissioner.

(6) A person appointed under subsection (2) or (5) of this section shall, as soon as may be after his appointment, take the oath prescribed in Schedule I hereto.

B. Appeals.

Appeals in civil matters.

10. (1) In civil matters an appeal shall lie to the Court of Appeal –

(a) as of right, from any final judgment of the Supreme Court, where the matter in dispute on the appeal amounts to or is of the value of £5,000 or upwards, or where the appeal involves, directly or indirectly, some claim or question to or respecting property, or some civil right, amounting to or of the value of £5,000 or upwards;

(b) at the discretion of the Supreme Court from any other judgment of the Court, whether final or interlocutory if, in the opinion of the Court, the question involved in the appeal is one which, by reason of its general or public importance, or otherwise, ought to be the subject-matter of an appeal; and

(c) should the Supreme Court refuse to grant leave to appeal under the preceding paragraph, in pursuance of special leave to appeal granted by the Court of Appeal.

(2) An appeal shall, irrespective of the value involved, lie to the Court of Appeal from all final judgments in matrimonial causes and in matters of guardianship of minors or adoption.

Case stated in civil matters.

11. (1) A Judge may in his discretion, irrespective of any appeal and whether a case be appealable or not, reserve any question of law decided by him in the course of any civil cause or matter for the ruling of the Court of Appeal. The question so reserved shall be stated in the form of a case prepared and signed by the Judge himself, and such case shall be transmitted to the said court.

(2) Whenever a case shall have been so reserved and stated by a Judge, the execution of the judgment shall be stayed pending the decision of the Court of Appeal.

Appeals in criminal matters.

12. The right of appeal from decisions of the Supreme Court in criminal matters shall be governed by the Criminal Procedure Code 2019.

C. Practice and Procedure.

Practice and procedure.

13. The jurisdiction of the Supreme Court shall be exercised, as regards practice and procedure –

(a) in civil matters, in accordance with rules of court made under section 14, and in default thereof, in substantial conformity with the practice and procedure for the time being observed in England by the High Court of Justice;

(b) in criminal matters, in accordance with the Criminal Procedure Code 2019, rules made under section 5 of the British Indian Ocean Territory (Court of Appeal) Order 1976 and, subject thereto, in accordance with rules made under section 14.

Rules of the court.

14. (1) The Chief Justice may make rules of court regulating and prescribing the procedure and practice to be followed in the Supreme Court in all causes and matters other than appeals therefrom, civil and criminal, in or with respect to which the Supreme Court has jurisdiction and any matters incidental to or relating to that procedure or practice.

(2) Without prejudice to the generality of subsection (1) of this section, rules of court may be made for the following purposes –

- (a) regulating the sittings of the Supreme Court;
- (b) prescribing the jurisdiction which may be exercised by the Registrar or by a deputy or assistant registrar (including provision for appeal against decisions in the exercise of such jurisdiction) and the duties of the officers of the court;
- (c) prescribing the fees and percentages to be taken in the Supreme Court, the fees of counsel and the costs of solicitors and the costs of proceedings in that court;
- (d) the deposit, payment, delivery, and transfer in, into and out of the Supreme Court of money, securities and movable property of suitors.

D. Officers of the Supreme Court.

Registrar and other officers of Supreme Court.

15. The officers of the Supreme Court shall be the Registrar, the ushers and such other officers as the Commissioner may, after consultation with the Chief Justice, appoint.

Powers and functions of Registrar.

16. (1) The Registrar shall have and may exercise and perform –

- (a) the same jurisdiction, powers and duties as the Masters, Registrars and like officers of the High Court of Justice in England; and
- (b) such other jurisdiction, powers and duties as may be conferred or imposed on him by or under rules of court or any other law.

(2) Subject to rules of court, all the jurisdiction, powers and duties conferred or imposed on the Registrar may be had, exercised or performed by a deputy or assistant registrar.

Appointment of ushers.

17. The Commissioner may, after consultation with the Chief Justice, appoint as many fit and proper persons as may be necessary to be ushers.

Repealed.

18. *Repealed.*

Duties of ushers.

19. The primary duty of ushers shall be to attend, keep order, and to act as ushers at the sittings of the Supreme Court, to execute all orders, writs and warrants which may be issued to them by the Registrar or other competent officer of the Supreme Court and generally to perform such duties as may devolve upon them under any law now in force or to be enacted.

Ushers may serve extra-judicial processes.

20. Ushers may serve extra-judicial processes at the request of any person, on payment of the prescribed fees.

Ushers bound to serve documents when required.

21. An usher shall be bound to serve any document or to do any act appertaining to his function whenever called upon to do so, except where he is debarred by law from the performance of his duties on account of personal interest or relationship.

Ushers may be called upon to serve process of Magistrate's Court.

22. Ushers shall, in addition to the process of the Supreme Court, be bound to serve the process of the Magistrate's Court.

Offences by ushers.

23. An usher who –

(a) fraudulently; or

(b) wilfully, for any reason not amounting to fraud, fails personally to serve or deliver, or endorse, or return, any summons, notice or other document entrusted to him, is guilty of an offence and liable on conviction –

(i) in case (a) to imprisonment for two years or to a fine;
and

(ii) in case (b) to imprisonment for six months or to a fine of £2,500.

Suspension and dismissal of ushers.

24. An usher may be temporarily suspended by the Chief Justice for any breach of duty or misconduct and on the report of the Chief Justice he may be dismissed by the Commissioner.

Officers of Supreme Court under authority of Chief Justice and Registrar.

25. (1) The Registrar, the ushers and all other officers of the Supreme Court shall be under the authority of the Chief Justice and shall conform with his instructions and directions.

(2) Subject to the overriding authority of the Chief Justice, the ushers and all other officers of the Supreme Court shall be under the authority of the Registrar and shall conform with his instructions and directions.

PART III – MAGISTRATE’S COURT

A. General.

Definition.

26. In this Part, unless the context otherwise requires, **court** means the Magistrate’s Court.

Appointment of Magistrates.

27. (1) The Commissioner may appoint as many fit and proper persons as may be necessary to be Magistrates.

(2) A Magistrate shall, as soon as may be after his appointment, take the oath prescribed in Schedule I hereto.

Appointment of Senior Magistrate.

28. (1) The Commissioner may appoint as a Senior Magistrate any person qualified for such an appointment under subsection (2) of this section.

(2) A person shall not be qualified for appointment as a Senior Magistrate unless –

(a) he is or has been a Judge of a court, whether having limited or unlimited jurisdiction in either civil or criminal matters or both, in some part of the Commonwealth or of the Republic of Ireland, or a court having jurisdiction in appeals from any such court;

(b) he is or has been a permanent magistrate or magistrate appointed under contract in any such part; or

(c) he is entitled to practise as an advocate or as a solicitor in a court having unlimited jurisdiction in civil and criminal matters in any such part, or a court having jurisdiction in appeals from any such court.

(3) For the purposes of subsection (2)(c) of this section, a person shall be regarded as entitled to practise as an advocate or as a solicitor if he has been called, enrolled or otherwise admitted as such (and has not subsequently been disbarred or removed from the roll of advocates or solicitors) despite an existence of the following circumstances –

(a) he holds or acts in any office the holder of which is, by reason of his office, precluded from practising in a court; or

(b) he does not hold a practising certificate or has not satisfied any other like condition of his being permitted to practise.

(4) A Senior Magistrate shall, as soon as may be after his appointment, take the oath prescribed in Schedule I hereto.

Extent of jurisdiction and constitution of bench.

29. (1) The court is one court having jurisdiction throughout the Territory.

(2) A bench of the court consists of one Magistrate, sitting in criminal matters with or without an assessor or assessors at his discretion in accordance with the Criminal Procedure Code 2019.

B. Jurisdiction and Powers.

Jurisdiction in civil matters.

30. The jurisdiction and powers of the court in civil matters shall be as laid down in sections 42 to 48 inclusive and in any other law now in force or to be enacted.

Jurisdiction in criminal matters.

31. (1) The jurisdiction and powers of the court in criminal matters shall be as laid down in the Criminal Procedure Code 2019 and the Police and Criminal Evidence Ordinance 2019.

(2) Any Magistrate having cause to believe that a person has been arrested, detained or charged by a Police Officer contrary to the provisions of this Ordinance, the Criminal Procedure Code 2019 or the Police and Criminal Evidence Ordinance 2019 may cause that person to be brought before him forthwith.

Sittings.

32. The sittings of the court may be appointed for and held on any day and at any time at the discretion of the Magistrate.

Court house.

33. The court shall hold its sittings in such buildings as the Chief Justice may from time to time by notice published in the *Gazette* designate for that purpose.

Occasional courts.

34. (1) A Magistrate may hold an occasional court for the hearing or part hearing of a particular case at any place.

(2) Every such place shall be deemed to be an open and public court and, as far as circumstances permit, any person desiring to hear the proceedings shall be admitted to such place, except in cases to which subsection (3) of this section or section 43 of the Criminal Procedure Code 2019 applies.

(3) Where by reason of illness or infirmity attendance of a witness at the court house is not practicable the Magistrate may hear and record the evidence of that witness in any place in the presence of the parties and their legal representatives and of such other persons as the Magistrate considers necessary or expedient.

C. Staff.

Appointment of clerk of the court.

35. The Commissioner's Representative may appoint a clerk of the court.

Clerical work of court.

36. The clerical work of the court shall be performed by the clerk of the court.

Issue of process; books, records, etc.

37. The clerk of the court shall issue all process of the court, and register all orders, all judgments and keep records of all proceedings and shall keep account of all fees, fines and money paid into or out of the court and keep such other books or accounts as the Chief Justice may direct.

Magistrate to tax costs.

38. Costs shall be taxed by the Magistrate.

Process.

39. All process of the court may be served by an usher or by a Police Officer. In that connection section 23 of this Ordinance shall apply to a Police Officer as it applies to an usher.

Summons to witness.

40. (1) Any party to a cause, inquiry or other proceeding may obtain on application at the registry of the Supreme Court or at the office of the court a summons to a witness or witnesses, with or without a clause requiring the production of books, documents or any *corpus delicti*.

(2) Any person on whom such a summons has been served who refuses or neglects without sufficient cause to appear or to produce any books or documents or any *corpus delicti* required by the summons to be produced, and any person present before a Magistrate who on being required to give evidence refuses to be examined upon oath or affirmation concerning the matter at issue or refuses to take the oath or to be affirmed or having taken the oath or been affirmed, without sufficient cause refuses to answer questions concerning the matter or refuses or neglects to produce any such books, documents or *corpus delicti*, is liable to be summarily fined and committed to prison by the Magistrate:

Provided that such fine and term of imprisonment shall not exceed £1,000 and fifteen days respectively.

(3) A witness not appearing though served personally with a summons may be arrested by order of a Magistrate and brought before him to give evidence.

Power to punish for misbehaviour before court.

41. Any person who wilfully insults a Magistrate during his sitting or attendance in court or during any inquiry or who wilfully interrupts the proceedings of the court or otherwise misbehaves in court or before a Magistrate, is liable to be summarily fined and committed to prison by the Magistrate:

Provided that such fine and term of imprisonment shall not exceed £1,000 and fifteen days respectively.

D. Civil Matters.

Jurisdiction.

42. (1) The court has and shall exercise jurisdiction to decide any civil suit, except as provided in this sub-Part D, in which the amount claimed or the value of the subject matter does not exceed £100,000, exclusive of interest and costs.

(2) The court has jurisdiction in any suit by a landlord to obtain cancellation of a lease, with or without damages, or to recover possession of immovable property from a tenant or occupier, including suits where the value

of such property exceeds £100,000. Such cancellation of lease, damages and possession may be claimed in the same plaint in which rent is claimed:

Provided always that the yearly rent or the rental value of the property shall not exceed £100,000 and the sum claimed for damages, if any, and for rent shall not together exceed £100,000.

- (3) (a) The court has jurisdiction in possessory actions concerning any land, premises, runs of water or other immovable property or any other right arising out of immovable property including actions where such property or right exceeds £100,000 in value on the island of Diego Garcia when the plaintiff claims to be maintained or restored to the quiet enjoyment and possession of such property or right:

Provided that –

(i) the possessory action has been entered within one year from the imputed trespass; and

(ii) the plaintiff has been in quiet possession for at least one full year.

(b) In such possessory actions the court may inquire into and decide upon the question of ownership if the same be raised, and damages not exceeding £100,000 may also be claimed.

- (4) (a) The court has and shall exercise jurisdiction in possessory actions whenever the plaintiff is the Crown claiming possession of land in the Territory belonging to the Crown including actions where such land exceeds £100,000 in value.

(b) Upon receiving a written complaint that land belonging to the Crown is unlawfully occupied and that the Crown is seeking an order for possession of that land, the Magistrate or his appointed deputy shall, as soon as practicable, visit that land and there or nearby convene a court to determine the claim. The Magistrate or his appointed deputy shall there invite any person occupying or in possession of the land to make representations to him concerning their possession or occupation of the land.

(c) A certificate by the General Counsel that the land the subject of the proceedings belongs to the Crown and that no person has been granted a lease or any other right to possess or occupy the land shall be conclusive proof of the facts stated therein.

(d) Upon the Court making an order in favour of the Crown for possession of the land the Court shall further order that court officers appointed for the purpose shall forthwith using such

reasonable force as is necessary remove all persons and their possessions from the land.

(e) If any person being so removed from the land has no right to occupy any other land in the Territory the court officers removing him from the land may detain that person in custody pending his removal as soon as practicable by air or sea to a place outside the Territory.

(f) An appeal to the Supreme Court under section 47 against an order made under paragraph (d) of this subsection by a person with no right to occupy any other land in the Territory shall be made and adjudicated upon in writing but may not be made or adjudicated upon unless such person is not in the Territory.

(5) The court has jurisdiction in any suit for the payment of maintenance or alimony in a case where the law gives a right to maintenance or alimony, provided that the maintenance or alimony claimed does not exceed £5,000 per annum.

(6) The court has jurisdiction to entertain a claim made to goods seized in execution of a judgment of the court, or of the Supreme Court provided that the value of such goods does not exceed £5,000 and the claim is made within such period and in such form as may be prescribed by rules of court.

(7) The court has no jurisdiction in any suit concerning divorce, guardianship, adoption, civil status, succession, wills, bankruptcy or insolvency, or concerning rights or interests arising out of the ownership or usufruct of immovable property except in a suit under subsection (2), (3), (4) or (5) of this section.

Provisions relating to or affecting jurisdiction.

43. (1) Claims may not be split nor more than one suit instituted in respect of the same cause of action against the same party.

(2) A plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the court, but he shall not afterwards sue in respect of the portion so relinquished.

(3) The court has jurisdiction to decide a suit where the original claim exceeds the limit of its jurisdiction if the claim is brought within the limit by a set-off admitted by both parties.

(4) The jurisdiction shall not be ousted when in order to adjudicate upon a claim within the jurisdiction it is necessary for the court to decide upon a right to, or contract concerning, money or movable property exceeding £5,000 in value.

Valuation of claims.

44. (1) Where the jurisdiction of the court depends upon the value of any property and such value cannot be precisely ascertained, the plaintiff shall state in the plaint his estimate of the value, and if the defendant does not deliver, in time for service on the plaintiff before the first hearing, either a written objection to the plaintiff's estimate or a written defence including a distinct plea alleging a greater value, he shall be deemed to have admitted the plaintiff's estimate and subject to this section, the court shall decide the suit.

(2) Where the jurisdiction depends upon a value which is in dispute the court shall try the question of value as a preliminary issue and having heard the evidence adduced on the question of value only the court shall determine or estimate the value as at the date of filing of the plaint and, for the purpose of founding jurisdiction in that suit but for no other purpose, the opinion of the court as to that value shall be conclusive.

(3) Where by reason of any *bona fide* mistake in stating an amount of money or making an estimate of value the court has assumed jurisdiction in a suit and it subsequently appears that the suit is beyond the jurisdiction of the court, then if the mistake is discovered before witnesses have been summoned for the first hearing the court shall call upon the plaintiff to elect whether he will amend and re-serve the plaint, if necessary relinquishing the excess, or transfer the suit to the Supreme Court, and in either event the plaintiff shall bear the costs occasioned by the mistake, but if the mistake is not discovered until after the witnesses have been summoned, the court shall have jurisdiction and the suit shall proceed, provided that no relief exceeding that which it is within the ordinary jurisdiction of the court to give shall be given.

(4) If in any suit doubt arises before witnesses have been summoned for the first hearing as to whether the court has jurisdiction and the doubt cannot be resolved under the provisions of this Part, the court may refer the question to the Supreme Court.

(5) If at any stage of the hearing of a suit doubt arises as to whether the court has jurisdiction, the hearing shall proceed and if at the conclusion of the hearing the doubt has not been resolved, the court shall, after consideration, deliver a written judgment including findings on all the issues of fact in controversy, both as to matters affecting the jurisdiction and as to the merits of the claims pleaded, and if in the opinion of the court the suit was not within the jurisdiction, the suit shall be dismissed on that ground with or without an order for costs.

Costs.

45. (1) The court may make such order as to the whole or any part of the costs in any proceedings before it as may be just and may assess the same or direct taxation thereof:

Provided that where a civil suit is determined by arbitration, no award of costs shall include the fees of counsel or solicitor.

(2) The Crown shall be entitled to have costs and costs may be given against the Crown to the like extent and in the same way as costs may be had by and against any other party.

Execution of judgment or order of court.

46. A judgment or order of the court may, without prejudice to the provisions of any enactment prescribing other ways of execution or enforcement of a judgment or order of the court, be executed and enforced as if it were a judgment or order of the Supreme Court in any of the ways in which such judgment or order may be executed and enforced.

Appeals.

47. (1) Any person aggrieved by a final judgment of the court in any civil cause or matter to which he is a party may appeal to the Supreme Court.

(2) There shall be no appeal from any interlocutory judgment of the court except where, in the circumstances of a particular case, the interlocutory judgment has the effect of disposing of the claim, or one of the claims in the suit, in which event the Supreme Court may give leave to appeal on such terms as to security, costs and otherwise as may be just.

(3) No appeal under this section shall operate as a stay of execution, but the court, or after an appeal has been lodged, the Supreme Court, may stay execution on such terms as to security, costs and otherwise as may be just.

(4) In this section, **judgment** does not include the determination of a suit by arbitration.

Rules of court.

48. (1) The Chief Justice may make rules of court for the carrying out of the purposes of this Part and may, in particular, make such rules providing for –

(a) the practice and procedure preliminary or incidental to proceedings before the court;

(b) the service and execution of process issued by or for the purposes of the court;

(c) the keeping of records of proceedings before the court and the manner in which things done in the course of, or as preliminary or incidental to, any such proceedings, or any proceedings on appeal to the Supreme Court, may be proved in any legal proceedings;

(d) the forms to be used, the fees to be taken and the costs to be allowed.

(2) Without prejudice to the generality of subsection (1) of this section, rules of court may provide for the determination of suits by arbitration under the court –

(a) in all cases, or in all cases of a particular class, where the amount claimed or the value of the subject matter does not exceed £2,000 or such other sum as may be prescribed by the Commissioner by notice published in the *Gazette*;

(b) by agreement of all the parties to the suit, in any case where the amount claimed or the value of the subject matter exceeds £2,000 but does not exceed £5,000.

PART IV – LEGAL PRACTITIONERS

Licensing of counsel and solicitors.

49. (1) The Chief Justice may license any qualified person to appear as counsel in the Supreme Court or in the Magistrate’s Court, either generally or for the purposes of any particular cause or matter, or to practise as a solicitor in the Territory.

(2) A Magistrate may license any qualified person to appear as counsel in the court over which he presides for the purposes of any particular cause or matter.

(3) Every person holding the office of General Counsel or Principal Legal Adviser shall, so long as he continues to hold that office, enjoy all the rights and privileges in the Territory of counsel or a solicitor licensed under subsections (1) and (2) of this section.

(4) For the purposes of this section, **qualified person** means a legal practitioner admitted to practice law in any part of the United Kingdom or in the Republic of Ireland or in any part of the Commonwealth or in the United States of America or in any other country approved by the Commissioner for the purposes of this section.

(5) The Chief Justice may make rules of court prescribing the manner of application for a licence, the forms of licences and the fees to be paid for licences issued under this section.

Suspension and revocation of licences.

50. The Chief Justice may at any time suspend or revoke any licence issued under section 49.

Appeal.

51. Any person whose licence is suspended or revoked under section 50 may appeal to the Court of Appeal.

PART V – POLICE OFFICERS

Appointment and powers of Police Officer.

52. (1) The Commissioner may appoint any fit and proper person to be a Police Officer.

(2) A Police Officer shall, as soon as may be after his appointment, make a declaration in the form set out in Schedule II.

(3) The Commissioner may at any time terminate the appointment of a Police Officer.

(4) A Police Officer shall have the rights, powers, duties, privileges and protection of a constable at common law.

(5) Section 23 shall apply to Police Officers as it applies to ushers.

SCHEDULE I

JUDICIAL OATH (*or* AFFIRMATION)
(Sections 9, 27 and 28)

“I.....do swear (*or* solemnly affirm) that I will well and truly serve Her Majesty Queen Elizabeth II, Her Heirs and Successors, in (*or* while performing the functions of) the office of Chief Justice (*or* Senior Magistrate, *or* Magistrate) and I will do right to all manner of people after the laws and usages of The British Indian Ocean Territory, without fear or favour, affection or ill-will. So help me God (*or omit these last four words if affirmation is taken*)”.

SCHEDULE II

FORM OF DECLARATION
(Section 52)

“Iof.....do solemnly and sincerely declare and affirm that I will well and truly serve the Queen in the office of Police Officer, with fairness, integrity, diligence and impartiality, upholding fundamental human rights and according equal respect to all people; and that I will, to the best of my power, cause the peace to be kept and preserved and prevent all offences against people and property; and that while I continue to hold the said office I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law.”

