

Zambia

## State Proceedings Act, 1965

### Chapter 71

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# State Proceedings Act, 1965

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# Zambia

## State Proceedings Act, 1965

### Chapter 71

Commenced on 4 June 1965

*[This is the version of this document at 31 December 1996.]*

*[27 of 1965; 38 of 1970; 22 of 1974]*

**An Act to provide for civil proceedings by and against the State and the civil liabilities and rights of the State and its servants; and for purposes connected with the aforesaid matters.**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the State Proceedings Act.

#### 2. Interpretation

(1) In this Act, unless the context otherwise requires—

"**agent**", when used in relation to the State, includes an independent contractor employed by the State;

"**civil proceedings**" includes proceedings in the High Court or a subordinate court for the recovery of fines or penalties;

"**Defence Force**" means the Defence Force of Zambia maintained in accordance with the provisions of section four of the Defence Act;

*[Cap. 106]*

"**prescribed**" means prescribed by any written law;

"**proceedings against the State**" includes a claim by way of set-off or counter-claim raised in proceedings by the State;

"**public officer**" means a person holding or acting in or performing the functions of an office in the civil service of the Government and includes the President, the Vice-President, a Minister, a Junior Minister, the Secretary to the Cabinet, the Attorney-General, the Solicitor-General, the Auditor-General and members of the Zambia Police Force;

"**rules of court**" means, when used in relation to the Supreme Court, the High Court or a subordinate court, rules made under the Supreme Court of Zambia Act, the High Court Act and the Subordinate Courts Act respectively;

*[Cap. 25; Cap. 27; Cap. 28]*

"**State**" means the sovereign Republic of Zambia;

"**statutory duty**" means a duty imposed by or under any written law;

"**subordinate court**" means a court constituted under section three of the Subordinate Courts Act;

*[Cap. 28]*

"**written law**" means the Constitution, an Order in Council, an Act, an Applied Act, a British Act, an Ordinance and a statutory instrument.

- (2) Any reference in this Act to the provisions of this Act shall, unless the context otherwise requires, include a reference to rules of court made for the purposes of this Act.
- (3) Any reference in Part IV or V to civil proceedings by or against the State, or to civil proceedings to which the State is a party, shall be construed as including a reference to civil proceedings to which the Attorney-General, or any Government department, or any public officer as such, is a party:

Provided that the State shall not, for the purposes of Part IV or V, be deemed to be a party to any proceedings by reason only that they are brought by the Attorney-General upon the relation of some other person.

*[As amended by No. 38 of 1970]*

## **Part II – Substantive law**

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

Subject to the provisions of this Act, the State shall be subject to those liabilities in contract to which, if it were a private person of full age and capacity, it would be subject and any claim arising therefrom may be enforced as of right against the State in accordance with the provisions of this Act.

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

- (1) Subject to the provisions of 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—
  - (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 at common law by reason of being their employers; and
  - (c) in respect of any breach of the duties attaching at common law to the ownership, occupation, possession or control of property:

Provided that no proceedings shall lie against the State by virtue of paragraph (a) in respect of any act or omission of a servant or agent of the State 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) Where the State is bound by a statutory duty which is binding also upon persons other than the State and its officers, then, subject to the provisions of this Act, the State shall, in respect of a failure to comply with that duty, be subject to all those liabilities in tort (if any) to which it would be so subject if it were a private person of full age and capacity.
- (3) Where any functions are conferred or imposed upon a public officer as such either by any rule of the common law or by any written law, and that officer commits a tort while performing or purporting to perform those functions, the liabilities of the State in respect of the tort shall be such as they would have been if those functions had been conferred or imposed solely by virtue of instructions lawfully given by the State.
- (4) Any written law which negatives or limits the amount of the liability of any Government department or public officer in respect of any tort committed by that department or officer shall, in the case of proceedings against the State under this section in respect of a tort committed by that department or officer, apply in relation to the State as it would have applied in relation to that department or officer, if the proceedings against the State had been proceedings against that department or 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 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.

#### 4A. Restriction on court orders against State

Notwithstanding the provisions of this Act, no court of law shall make an order for damages or compensation against the State in respect of anything done under or in the execution of any restriction or detention order signed by the President:

Provided that nothing in this section shall apply to a claim for damages or compensation arising from—

- (i) physical or mental ill-treatment;
- (ii) any error in the identity of the person restricted or detained.

*[As amended by Act No. 22 of 1974]*

#### 5. Provisions as to industrial property

- (1) Where after the commencement of this Act any servant or agent of the State infringes a patent, or infringes a registered trade mark, or infringes any copyright (including any copyright in a design subsisting under the Registered Designs Act), and the infringement is committed with the authority of the State, then, subject to the provisions of this Act, civil proceedings in respect of the infringement shall lie against the State.
- (2) Nothing in subsection (1) or in any other provision of this Act shall affect the rights of any Government department under the Patents Act or the Registered Designs Act.

*[Cap. 400; Cap. 402]*

- (3) Save 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, in respect of the infringement of a registered trade mark, or in respect of the infringement of any such copyright as is mentioned in subsection (1).

*[Cap. 402]*

#### 6. Application of law as to indemnity, contribution, joint and several tortfeasors and contributory negligence

- (1) Where the State is subject to any liability by virtue of this Part, the law relating to indemnity and contribution 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.
- (2) <sup>\*(1)</sup> Without prejudice to the generality of subsection (1), Part V of the Law Reform (Miscellaneous Provisions) Act shall bind the State.

*[Cap. 74]*

*[\*These subsections are deemed to have come into force on 14th April, 1967.]*

- (3) <sup>\*(2)</sup> Without prejudice to the general effect of section three, Part VI of the Law Reform (Miscellaneous Provisions) Act shall bind the State.

*[Cap. 74]*

*[\*These subsections are deemed to have come into force on 14th April, 1967]*

*[As amended by No. 38 of 1970]*

## 7. Provisions relating to Defence Force

- (1) Nothing done or omitted to be done by a member of the Defence Force while on duty as such shall subject either him or the State to liability in tort for causing the death of 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 Defence Force if—
- (a) at the time that thing is suffered by that other person, he is either on duty as a member of the Defence Force 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 Defence Force; and
  - (b) the Minister responsible for finance certifies that his suffering that thing has been or will be treated as attributable to service for the purposes of entitlement to a gratuity or pension under any written law relating to the disablement or death of members of the Defence Force:

Provided that this subsection shall not exempt a member of the Defence Force 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 the Defence Force.

- (2) No proceedings in tort shall lie against the State for death or personal injury due to anything suffered by a member of the Defence Force if—
- (a) that thing is suffered by him in consequence of the nature or condition of any such land, premises, ship, aircraft or vehicle as aforesaid, or in consequence of the nature or condition of any equipment or supplies used for the purposes of the Defence Force; and
- [\*These subsections are deemed to have come into force on 14th April, 1967.]*
- (b) the Minister responsible for finance certified as mentioned in paragraph (b) of subsection (1);
- nor shall any act or omission of a public officer 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 Defence Force being a thing as to which the conditions aforesaid are satisfied.
- (3) The President or a Minister authorised by him if satisfied that it is the fact—
- (a) that a person was or was not on any particular occasion on duty as a member of the Defence Force; or
  - (b) that at any particular time any land, premises, ship, aircraft, vehicle, equipment or supplies was or was not, or were or were not, used for the purpose of the Defence Force;

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.

## 8. Saving in respect of acts done under prerogative and written laws

- (1) Nothing in this Part shall extinguish or abridge any powers or authorities which, if this Act had not been passed, would have been exercisable by virtue of the provisions of section 18 of the Zambia Independence Order, 1964, or any powers or authorities conferred on the State by any written law, and, in particular, nothing in this Part shall extinguish or abridge powers or authorities exercisable by the State, whether in time of peace or war, for the purposes of the defence of Zambia or of training, or maintaining the efficiency of the Defence Force.
- (2) Where in any proceedings under this Act it is material to determine whether anything was properly done or omitted to be done for any of the purposes of subsection (1), the President or a Minister authorised by him may, if satisfied that the act or omission was necessary for any such purpose, 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.



### **Part III – Jurisdiction and procedure**

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

Subject to the provisions of this Act, all civil proceedings by or against the State in the High Court shall be instituted and proceeded with in accordance with rules of court and not otherwise.

#### **10. Civil proceedings in subordinate courts**

- (1) Subject to the provisions of this Act, and to any written law limiting the jurisdiction of a subordinate 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 subordinate court.
- (2) Any proceedings by or against the State in a subordinate court shall be instituted and proceeded with in accordance with rules of court and not otherwise.

#### **11. Interpleader**

The State may obtain relief by way of interpleader proceedings, and may be made a party to such proceedings, in the same manner in which a subject may obtain relief by way of such proceedings or be made a party thereto, and may be made a party to such proceedings notwithstanding that the application for relief is made by a sheriff or other like officer; and all rules of court relating to interpleader proceedings shall, subject to the provisions of this Act, have effect accordingly.

#### **12. Parties to proceedings**

- (1) Subject to the provisions of any other written law, civil proceedings by or against the State shall be instituted by or against the Attorney-General as the case may be.
- (2) No proceedings instituted in accordance with this Part by or against the Attorney-General shall abate or be affected by any change in the person holding the office of Attorney-General.

#### **13. Service of documents**

All documents required to be served on the State for the purpose of or in connection with any civil proceedings by or against the State shall be served on the officer of the Attorney-General's Chambers having the conduct of such proceedings, or, if a legal practitioner in private practice is acting for the State in such proceedings, on such legal practitioner.

#### **14. Venue and related matters**

- (1) In any case in which civil proceedings against the State in the High Court are instituted by the issue of a plaint out of a District Registry, the State may enter an appearance either in the District Registry or in the Principal Registry, and, if an appearance is entered in the Principal Registry, all steps in relation to proceedings up to the trial shall be taken in Lusaka.
- (2) The trial of any civil proceedings by or against the State in the High Court shall be held at the High Court in Lusaka unless the court, with the consent of the State, otherwise directs.
- (3) Where the State refuses its consent to a direction under subsection (2), the court may take account of the refusal in exercising its power in regard to costs.
- (4) In this section—  
"District Registry" means a District Registry directed to be established under the High Court Act;

"Principal Registry" means the office of the Registrar of the High Court at Lusaka.

[*Cap. 27*]

## 15. Removal and transfer of proceedings

- (1) If, in a case where proceedings are instituted against the State in a subordinate court, an application in that behalf is made by the State to the High 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 High Court, the proceedings shall be removed into the High Court.
- (2) Where any proceedings have been removed into the High Court on the production of such a certificate as is mentioned in subsection (1), and it appears to the court by whom 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 expense so occasioned in exercising its powers in regard to the award of costs.
- (3) Without prejudice to the right of the State under the preceding provisions of this section, the provisions of any written law relating to the removal or transfer of proceedings from a subordinate court to the High Court or the transfer of proceedings from the High Court to a subordinate court shall apply in relation to proceedings against the State:

Provided that an order for the transfer to a subordinate court of any proceedings against the State in the High Court shall not be made without the consent of the State.

## 16. Nature of relief

- (1) In any civil proceedings by or against the State the court shall, subject to the provisions of this Act, have power to make all such orders as it has power to make in proceedings between subjects, and otherwise to give such appropriate relief as the case may require:  
Provided that—
  - (i) where in any proceedings against the State any such 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 in lieu thereof make an order declaratory of the rights of the parties; and
  - (ii) in any 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 in lieu thereof make an order declaring that the plaintiff is entitled as against the State to the land or property or to the possession thereof.
- (2) The court shall not in any civil proceedings grant any injunction or make any order against a public officer 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.

## 17. Costs in civil proceedings to which State is a party

In any civil proceedings or arbitration to which the State is a party, the costs of and incidental to the proceedings shall be awarded in the same manner and on the same principles as in cases between subjects, and the court or arbitrator shall have power to make an order for the payment of costs by or to the State accordingly:

Provided that—

- (i) in the case of proceedings to which by reason of any written law or otherwise the Attorney-General, or any other public officer as such is authorised to be made a party, the court or arbitrator shall have

regard to the nature of the proceedings and the character and circumstances in which the Attorney-General or public officer appears, and may in the exercise of its or his discretion order any other party to the proceedings to pay the costs of the Attorney-General or officer, whatever may be the result of the proceedings; and

- (ii) nothing in this section shall affect the power of the court or arbitrator to order, or any written law providing for, the payment of costs out of any particular fund or property, or any written law expressly relieving any Government department or public officer of the liability to pay costs.

## 18. Appeals and stay of execution

Subject to the provisions of this Act, all written laws relating to appeals and stay of execution shall, with any necessary modifications, apply to civil proceedings by or against the State as they apply to proceedings between subjects.

## 19. Scope of Part III

- (1) Subject to the provisions of this section, any reference in this Part to civil proceedings by the State shall be construed as a reference to the following proceedings only:
  - (a) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by an action at the suit of any Government department or any public officer as such;
  - (b) all such proceedings as the State is entitled to bring by virtue of this Act;and the expression "civil proceedings by or against the State" shall be construed accordingly.
- (2) Subject to the provisions of this section, any reference in this Part to civil proceedings against the State shall be construed as a reference to the following proceedings only:
  - (a) proceedings for the enforcement or vindication of any right or the obtaining of any relief which, if this Act had not been passed, might have been enforced or vindicated or obtained by an action against the Attorney-General or any public officer as such; and
  - (b) all such proceedings as any person is entitled to bring against the State by virtue of this Act;and the expression "civil proceedings by or against the State" shall be construed accordingly.
- (3) Notwithstanding anything in the preceding provisions of this section, the provisions of this Part shall not have effect with respect to any of the following proceedings, that is to say:
  - (a) proceedings brought by the Attorney-General on the relation of some other person;
  - (b) proceedings relating to charitable trusts by or against the Attorney-General.

## Part IV – Judgements and execution

### 20. Interest

The Minister responsible for finance may allow and cause to be paid out of the general revenues of the Republic to any person entitled by a judgment under this Act to any money or costs, interest thereon at a rate not exceeding six *per centum* from the date of the judgment until the money or costs are paid.

### 21. Satisfaction of orders against State

- (1) Where in any civil proceedings by or against the State, or in any proceedings in connection with any arbitration to which the State is a party, any order (including an order for costs) is made by any court in favour of any person against the State or against a public officer 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 the expiration of twenty-one days from the date of the order or, in case 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 the later, issue to that person a certificate in the prescribed form containing particulars of the order:

Provided that, if the court so directs, a separate certificate shall be issued with respect to the costs (if any) ordered to be paid to the applicant.

- (2) A copy of any certificate issued under this section may be served by the person in whose favour the order is made upon the Attorney-General.
- (3) If the order provides for the payment of any money by way of damages or otherwise, or of any costs, the certificate shall state the amount so payable, and the Permanent Secretary, Ministry of Finance, shall, subject as hereinafter provided, pay to the person entitled or to the legal practitioner acting for such person in the proceedings to which the order relates the amount appearing by the certificate to be due to him together with the interest, if any, allowed under section twenty:

Provided that the court by which any such order as aforesaid is made, or any court to which an appeal against the order lies, may direct that, pending an appeal or otherwise, payment of the whole of any amount so payable, or any part thereof, shall be suspended and, if the certificate has not been issued, may order any such directions to be inserted therein.

- (4) Save as aforesaid, no execution or attachment or process in the nature thereof shall be issued out of any court for enforcing payment by the State of any such money or costs as aforesaid, and no person shall be individually liable under any order for the payment by the State, or any public officer as such, of any such money or costs.
- (5) This section shall apply both in relation to proceedings pending at the commencement of this Act and in relation to proceedings instituted thereafter.

## **22. No judgment by default without leave**

In any proceedings against the State under this Act, judgment shall not be entered against the State in default of appearance or pleading without the leave of the court to be obtained on application of which at least fourteen clear days' notice has been given to the Attorney-General, or, if a legal practitioner in private practice is acting for the State in the proceedings, to such legal practitioner.

## **23. Execution by State**

Subject to the provisions of this Act, any order made in favour of the State against any person in any 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 and not otherwise.

## **24. Attachment of moneys payable by State**

- (1) Where any money is payable by the State to some person who, under any order of any court, is liable to pay any money to any other 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 attachment thereof 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 High Court may, subject to the provisions of this Act and in accordance with rules of court, make an order restraining the first-mentioned person from receiving that money and directing payment thereof to that person or to the sequestrator or receiver:

Provided that no such order shall be made in respect of—

- (i) any wages or salary payable to any public officer as such;
- (ii) any money which is subject to the provisions of any written law prohibiting or restricting assignment or charging or taking in execution; or

- (iii) any money payable by the State to any person on account of a deposit in the Post Office Savings Bank.
- (2) The provisions of subsection (1) shall, so far as they relate to forms of relief falling within the jurisdiction of a subordinate court, have effect in relation to subordinate courts as they have effect in relation to the High Court.

## Part V – Miscellaneous and supplemental

### 25. Discovery

- (1) Subject to and in accordance with rules of court—
  - (a) in any civil proceedings in the High Court or a subordinate 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; and
  - (b) in any such proceedings as aforesaid, the State may be required by the court to answer interrogatories:

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

- (2) Any order of the court made under the powers conferred by paragraph (b) of subsection (1) shall direct by what public officer the interrogatories are to be answered.
- (3) Without prejudice to the proviso to subsection (1), 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 a Minister, it would be injurious to the public interest to disclose the existence thereof.

### 26. Exclusion of proceedings *in rem* against State

- (1) Nothing in this Act shall authorise proceedings *in rem* in respect of any claim against the State, or the arrest, detention or sale of any ship 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) Where proceedings *in rem* have been instituted in the High Court or in a subordinate 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 the provisions of 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.
- (3) Any order made in accordance with the provisions of subsection (2) may be made upon such terms, if any, as the court thinks just; and where the court makes any such order it may make such consequential orders as it thinks expedient.

### 27. Limitation of actions

Nothing in this Act shall prejudice the right of the State to rely upon any written law relating to the limitation of time for bringing proceedings against public authorities.

## 28. Application to State of certain statutory provisions

This Act shall not prejudice the right of the State to take advantage of the provisions of any written law although not named therein; and it is hereby declared that in any civil proceedings against the State the provisions of any written law which could, if the proceedings were between subjects, be relied upon by the defendant as a defence to the proceedings, whether in whole or in part, or otherwise, may, subject to any express provisions to the contrary, be so relied upon by the State.

## 29. Rules of court

- (1) Any power to make rules of court shall include power to make rules for the purpose of giving effect to the provisions of 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 of the provisions of the rules applying to proceedings between subjects.
- (2) Provision shall be made by rules of court with respect to the following matters:
  - (a) for providing for service of process, or notice thereof, in the case of proceedings by the State against persons, whether citizens of Zambia or not, who are not resident in Zambia;
  - (b) for securing that where any civil proceedings are brought against the State in accordance with the provisions of this Act the plaintiff shall, before the State is required to take any 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 Government departments and public officers concerned;
  - (c) for excepting proceedings brought against the State from the operation of any rule of court providing for summary judgment without trial, and for enabling any such proceedings to be put, in proper cases, into any 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 as aforesaid;
  - (d) for enabling evidence to be taken on commission in proceedings by or against the State;
  - (e) for providing—
    - (i) that a person shall not be entitled to avail himself of any set-off or counter-claim in any 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 any set-off or counter-claim 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 any set-off or counter-claim in any proceedings by the State; and
    - (iii) that the State shall not be entitled to avail itself of any set-off or counter-claim without the leave of the court.
- (3) Provisions may be made by rules of court for regulating any appeals to the High Court or to the Supreme Court and whether by way of case stated or otherwise, under any written law relating to the revenue, and any rules made under this subsection may revoke any written law or rules in force immediately before the commencement of this Act so far as they regulate any such appeals and may make provision for any matters for which provision was made by any written law or rules so in force.

## 30. Repeal and transitional provisions

The Crown Proceedings Act, Chapter 242 of the 1953 Edition of the Laws, is hereby repealed:

Provided that any proceedings under the said Act pending before any court at the commencement of this Act shall be continued and concluded, and any judgment given may be enforced, in every respect as if the said Act had remained in force.

### 31. Savings

- (1) Except as therein otherwise expressly provided, nothing in this Act shall—
  - (a) subject the State to any greater liabilities in respect of the acts or omissions of any 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; or
  - (b) affect any rules of evidence or any presumption relating to the extent to which the State is bound by any written law; or
  - (c) affect any right of the State to demand a trial at bar or to control or otherwise intervene in proceedings affecting its rights, property or profits.
- (2) Nothing in this Act shall authorise a public officer as such to take proceedings against the State under or in accordance with this Act which he as such a public officer could not have taken if this Act had not been passed.
- (3) Where any property vests in the State by virtue of any rule of law which operated independently of the acts or the intentions of the State, the State shall not by virtue of this Act be subject to any liabilities in tort by reason only of the property being so vested; but the provisions of this subsection shall be without prejudice to the liabilities of the State under this Act in respect of any period after the State or any person acting for the State has in fact taken possession or control of any such property, or entered into occupation thereof.
- (4) This Act shall not operate to limit the discretion of the court to grant relief by way of *mandamus* in cases in which such relief might have been granted before the commencement of this Act, notwithstanding that by reason of the provisions of this Act some other further remedy is available.
- (5) Save as is provided in the Postal Services Act, no proceedings shall lie against the State or its servants or agents—
  - (a) by reason of anything done or omitted to be done or any damage or loss, whether negligent or otherwise, in relation to or in respect of any postal packet or telegram;
  - (b) in respect of the amount of a money order;
  - (c) in respect of the *bona fide* payment of any sum of money under that Act; or
  - (d) by reason of anything lawfully done under that Act or any other written law.

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- (6) In subsection (5), the expressions "money order", "postal article" and "telegram" have the meanings respectively assigned to them in the Postal Services Act.

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