

**Constitution of Barbados
and
Supreme Court of Judicature**

Cap. 117A.

**SUPREME COURT OF JUDICATURE
(CONSTITUTIONAL REDRESS) RULES, 1975**

1975/160.

Made by the Judicial Advisory Council under the powers conferred on the Council by section 24(6) of the *Constitution* and section 46 of the *Supreme Court of Judicature Act, 1956*¹.

1956-56.

1. These Rules may be cited as the *Supreme Court of Judicature (Constitutional Redress) Rules, 1975*.

2. The jurisdiction and powers conferred on the High Court by or under section 24 of the *Constitution* shall be exercisable by a single Judge.

3. An application to the High Court for redress under section 24(1) of the *Constitution* may be made

(a) by motion supported by affidavit; or

(b) by filing a writ of summons

(i) claiming a declaration;

(ii) praying for an injunction; or

(iii) claiming or praying for such other order as may be appropriate.

4. (1) Subject to paragraph (2), a motion under paragraph (a) of rule 3 shall not be made without at least 3 clear days previous notice to the parties affected thereby, unless the High Court gives leave to the contrary.

¹ These Rules remain in force, notwithstanding the repeal of this Act by section 96(2) of the *Supreme Court of Judicature Act, 1981*, by virtue of section 30(3)(a) of the *Interpretation Act*.

(2) A Judge, if he is satisfied that the delay involved in giving notice as required by paragraph (1) would or might entail irreparable or serious mischief, may make an order *ex parte* on such terms as to costs or otherwise, and subject to such undertaking, if any, as he thinks just; but any party affected by such order may apply to the High Court within 7 days of the making of the order to set it aside.

(3) A notice of motion under paragraph (a) of rule 3 shall state

(a) concisely the nature of the claim; and

(b) the relief or remedy required.

5. Where an application is made to the High Court for redress under section 24(1) of the *Constitution* in accordance with rule 3 and the Attorney-General is not a party to the proceedings, the applicant or plaintiff shall file an extra copy of

(a) the motion and affidavit in support thereof; or

(b) the writ of summons,

as the case may be; and the Registrar shall within 3 days thereafter forward such copy to the Attorney-General for his information.

6. (1) A question referred to the High Court pursuant to section 24(3) of the *Constitution* by a person presiding in any court shall be by way of case stated.

(2) The case shall be stated within 14 days of the decision of the person presiding in that court to refer the question.

(3) The case shall

(a) set out the facts which have been proved or admitted, and the question which is referred to the High Court for its decision;

(b) be signed by the person referring the question; and

(c) be transmitted by the person referring the question to the Registrar.

(4) The person referring the question shall cause copies of the case to be served upon

- (a) the party (if any) at whose request the case was stated;
- (b) such other parties to the proceedings as are affected by the question; and
- (c) the Attorney-General and the Director of Public Prosecutions, where the Attorney-General, or, in a criminal matter, the Director of Public Prosecutions, is not a party to the proceedings.

(5) Upon receipt of a case transmitted pursuant to paragraph (3), the Registrar shall forthwith set down the case for hearing and notify the parties and the Attorney-General, and, in a criminal matter, the Director of Public Prosecutions, of the date fixed for the hearing.

(6) The High Court hearing a case referred to it under this rule may

- (a) amend the case or order it to be returned to the court by which it was stated for amendment; and
- (b) draw references of fact from the facts stated in the case.

(7) The Attorney-General, and, in the case of a criminal matter, the Director of Public Prosecutions, are entitled to appear and be heard in proceedings for the determination of a question referred to the High Court pursuant to section 24(3) of the *Constitution*.

(8) The Registrar shall notify the court by which the question was referred of the decision of the High Court upon the question.

7. Save as otherwise provided in these Rules, the jurisdiction and powers conferred on the High Court in respect of applications made by any person in pursuance of section 24 of the *Constitution* shall be exercised in accordance with the practice and procedure (including any rules of the court) for the time being in force in relation to civil proceedings in the High Court, with such variations as circumstances require.