



**BERMUDA
1965 : 22**

**CANADIAN FORCES (PRIVILEGES AND IMMUNITIES) ACT
1965**

ARRANGEMENT OF SECTIONS

1	Interpretation	5	Evidence
2	Jurisdiction	6	Extension of certain rights and immunities
3	Exercise of powers by Canadian service authorities	7	Immunity from civil claims
4	Local courts not to try offenders tried by service courts		

[22 March 1965]

[preamble and words of enactment omitted]

Interpretation

1 In this Act unless the context otherwise requires—

"Arrangements" means the arrangements regarding the status of any Canadian visiting force, its members and any dependent, subsisting between the Governments of Canada and the United Kingdom by virtue of an Exchange of Notes between those Governments in London on the 11th day of September, 1964, as amended from time to time in the manner provided for in the Exchange of Notes;

"Canadian service authorities" means the service authorities and service courts of Canada that are empowered by the law of Canada to enforce Canadian service law;

**CANADIAN FORCES (PRIVILEGES AND IMMUNITIES) ACT
1965**

"Canadian visiting force" means any element of the Canadian Forces present in the territory of Bermuda;

"dependant" means a person who is a wife, child or other relative of, and who accompanies and is dependent for support on, a member;

"local court" means any court having jurisdiction in Bermuda other than a service court;

"local law" means any provision of law;

"member" means any officer or man of the Canadian Forces present in Bermuda in connection with official duties, and includes any civilian person in the employ of, and who accompanies, the Canadian visiting force, except civilian employees enjoying Bermudian Status or normally resident in Bermuda at the time of entering the employ of the Canadian visiting force;

"service authorities" means naval, military or air force authorities;

"service court" means a court established under service law;

"service law" means the law of Canada governing all or any of the Canadian visiting forces, a member or dependent.

[Section 1 "local court" amended by 2002:6 s.4 & Sch 3 effective 18 June 2002]

Jurisdiction

2 (1) Subject to this section, a person charged with an offence against local law shall not be liable to be tried for that offence by a local court if at the time when the offence is alleged to have been committed he was a member or a dependent and—

- (a) in the case of a member, the alleged offence, if committed by him, arose out of and in the course of his duty as a member; or
- (b) the alleged offence is an offence against the person, and the person or, if more than one, each of the persons in relation to whom it is alleged to have been committed, was at the time thereof a member or a dependent; or
- (c) the alleged offence is an offence against property, and the whole of the property in relation to which it is alleged to have been committed (or, in a case where different parts of that property were differently owned, each part of the property) was at the time thereof the property of the Government of Canada or a member or a dependent:

	Title 7
<i>Laws of Bermuda</i>	Item 31

Provided that this section shall not apply if at the time when the offence was alleged to have been committed the alleged offender was a person not subject to the jurisdiction of a service court.

(2) In relation to the trial of a member or a dependent at the time when the offence is alleged to have been committed, subsection (1) shall not have effect unless it is shown that the case can be dealt with under service law.

(3) Nothing in subsection (1)—

(a) shall prevent a person from being tried by a local court in a case where the Director of Public Prosecutions certifies, either before or in the course of the trial, that the Canadian service authorities have informed him that it is not proposed to deal with the case under service law; or

(b) shall affect anything done or omitted in the course of a trial unless in the course thereof objection has already been made that by reason of that subsection the court is not competent to deal with the case; or

(c) shall, after the conclusion of a trial, be treated as having affected the validity thereof if no such objection was made in the proceedings at any stage before the conclusion of the trial.

(4) Nothing in this section shall be construed as derogating from the provisions of any other provision of law respecting the prosecution of any proceedings or requiring the consent of any authority to the prosecution thereof.

[Section 2 subsection (3)(a) amended by 1999:8 s.2 & Sch 1 effective 1 April 1999]

Exercise of powers by Canadian service authorities

3 (1) The Canadian service authorities may within Bermuda exercise over any member or dependent subject to their jurisdiction all such powers as are exercisable by them according to the law of Canada.

(2) Where any sentence has, whether within or outside Bermuda, been passed by a service court upon a person who was at the time a member or dependent, then for the purpose of any proceedings in a local court the said service court shall be deemed to have been properly constituted, and the sentence shall be deemed to be within the jurisdiction of that service court and in accordance with the law of Canada and, if lawfully executed according to the tenor of the sentence, shall be deemed to have been lawfully executed.

(3) Notwithstanding anything in the foregoing provisions of this section, a sentence of death passed by a service court shall not be

**CANADIAN FORCES (PRIVILEGES AND IMMUNITIES) ACT
1965**

carried out in Bermuda unless under local law a sentence of death could have been passed in a similar case.

- (4) Any person who—
- (a) is detained in custody in pursuance of a sentence as respects which subsection (2) has effect; or
 - (b) being subject in accordance with this section to the jurisdiction of a service court, is detained in custody pending or during a trial by such service court of a charge brought against him,

shall for the purposes of any proceedings in any local court be deemed to be in legal custody.

(5) For the purpose of enabling the Canadian service authorities to exercise more effectively the powers referred to in subsection (1), a Police Officer may arrest any member or dependent whom he has reasonable grounds to believe to be guilty of an offence punishable under service law and to hand him over to the Canadian service authorities.

Local courts not to try offenders tried by service courts

4 (1) Without prejudice to section 2 where a person has been tried by a service court in the exercise of the powers referred to in section 3(1), he shall not be tried for the same offence by a local court.

(2) Where a person who has been convicted by a service court in the exercise of the said powers, is convicted by a local court for a different offence, but it appears to the local court that the conviction by the service court was wholly or partly in respect of acts or omissions in respect of which he was convicted by the local court, the local court shall have regard to the sentence of the service court.

Evidence

5 (1) For the purpose of this Act a certificate issued by or on behalf of the Canadian service authorities stating that at a time specified in the certificate a person so specified either was or was not a member or dependent shall in any proceedings in a local court, be sufficient evidence of the fact so stated unless the contrary is proved.

(2) For the purpose of this Act a certificate issued by or on behalf of the Canadian service authorities stating as respects a person specified in the certificate—

- (a) that on a date so specified he was sentenced by a service court to such punishment as is specified in the certificate; or

	Title 7
<i>Laws of Bermuda</i>	Item 31

(b) that he is, or was at a time so specified, detained in custody in pursuance of a sentence passed upon him by a service court pending or during the trial by such service court of a charge brought against him; or

(c) that he has been tried, at a time and place specified in the certificate, by a service court for an offence so specified, shall in any proceeding in any local court be conclusive evidence of the fact so stated.

(3) For the purpose of section 2(2), a certificate issued by or on behalf of the Canadian service authorities stating in connection with any charge against a person of an offence against local law, being a charge specified in the certificate, that his case can be dealt with under the service law, shall in any such proceedings as aforesaid be conclusive evidence of the fact so stated.

(4) Where a person is charged with an offence against local law and at the time when the offence was alleged to have been committed he was a member or dependant, a certificate issued by or on behalf of the Canadian service authorities stating that the alleged offence, if committed by him, arose out of or in the course of his duty as a member shall in any such proceedings as aforesaid be sufficient evidence of the fact unless the contrary is proved.

Extension of certain rights and immunities

6 (1) Subject to this Act or any Arrangements regarding the status of the Canadian Visiting Forces between the Government of the United Kingdom and Canada, there shall be enjoyed by the Canadian service authorities, a member or dependant the rights, privileges, immunities and exemptions as were formerly enjoyed respectively by the United States Authorities, a United States employee or his dependant under the United States Bases (Agreement) Act, 1952 [*title 7 item 4*], or any other law, in relation to the following matters and subject to the same restrictions, namely, import, export and other duties, taxes, licensing, registration, the carrying and possession of arms, immigration, payment of statutory fees, the use of public services and facilities, the arrest and surrender of offenders and right of audience in a local court.

[Section 6 amended by 2002:6 s.4 & Sch 3 effective 18 June 2002]

(2) For the purposes of subsection (1), it shall, *prima facie*, be proof of the terms of any Arrangements to produce—

(a) a copy of the Gazette purporting to set forth the terms thereof; or

(b) a document purporting to be printed under the Authority of the Government of Bermuda or of the

**CANADIAN FORCES (PRIVILEGES AND IMMUNITIES) ACT
1965**

Government of the United Kingdom and purporting to set forth the terms thereof; or

- (c) a document purporting to set forth the terms thereof and purporting to be certified as correct by the Deputy Governor.

Immunity from civil claims

7 A member of the Canadian visiting force shall not be subject to any proceeding for the enforcement of any judgment given against him in Bermuda in a civil cause in a matter arising out of the performance of his official duties.

[Amended by:

1970 : 109

1999 : 8

2002 : 6]