

SUPREME COURT ORDER

CHAPTER 4:01

S.I. 1967 No.223 (U.K.)

Amended by
16/1967

S.I. 1975 No.1

S.I. 1975 No.2

S.I. 1978 No.1027 (U.K.)

18 of 1983

S.I. 1985 No.1

S.I. 1985 No.2

S.I. 1985 No.3

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
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of
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**Note
on
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The following Rules have been omitted:

- (a) Rules of the Supreme Court (Revision) 1970 (S.I. 1970 No.2)
- (b) Rules of the Supreme Court 1970 (These Rules are set out in the Schedule 1 to the Rules of the Supreme Court (Revision) 1970 (S.I. 1970 No.2) (amended by S.I. 1972 No.1; S.I. 1972 No.2; S.I. 1983 No.1)
- (c) Court of Appeal Rules (S.R.O.9/1968) (amended by S.I. 1970 No.2; S.I. 1972 No.3)
- (d) The Supreme Court (State Proceedings) (Dominica) Rules 1964 (S.R.O. 24/1964). These Rules have been substantially amended by the Rules of the Supreme Court (Revision) 1970 (S.I. 1970 No.2).

**Note
on
Supreme Court Order**

This Order was originally entitled the West Indies Associated States Supreme Court Order. Paragraph 8 of Schedule 2 to the Commonwealth of Dominica Constitution Order (S.I. 1978 No.1027) provides as follows:

"8. The West Indies Associated States Supreme Court Order 1967^(a), in so far as it has effect as part of the law of Dominica, may be cited as the Supreme Court Order and for the purposes of the law of Dominica –

Supreme Court
Order.

- (a) the Supreme Court established by that Order shall, unless Parliament otherwise provides, be styled the Eastern Caribbean Supreme Court; and
- (b) references in that Order to the Premier of Dominica or to the Premier of any other independent state shall be construed as references to the Prime Minister of Dominica or, as the case may be, to the Prime Minister of that other state."

**Note
on
Repeal**

- (a) With respect to the revocation of –
 - (i) the Windward Islands and Leeward Islands (Courts) Order in Council (S.I. 1959 No.2197); and
 - (ii) the British Caribbean Court of Appeal Order in Council (S.I. 1962 No.1086),see the footnotes to section 1 of this Order.
- (b) The Court of Appeal Rules (S.R.O. 9/1968) have revoked the Federal Supreme Court (Appeal) Rules 1959.
- (c) The Judicial and Legal Services Commission Regulations (S.R.O. 26/1967) have revoked the Judicial and Legal Services Commission Regulations 1961 (F.S.I. 1/1961) (1961 Ed. Cap.24 Vol.V, p.29).
- (d) The Supreme Court Offices (Salary and Allowances of Chief Registrar) Order 1970 (S.R.O. 10/1970) has revoked the Supreme Court Offices (Salary and Allowances of Chief Registrar) Order 1967 (S.R.O. 33/1967).
- (e) The Supreme Court (Salaries, Allowances and Conditions of Service of Judges) Order 1975 (S.I. 1975 No.1) has revoked the following instruments:
 - (i) The Supreme Court of the Windward Islands and Leeward Islands (Judges' Remuneration and Terms and Conditions of Office) Order 1967;
 - (ii) The Instrument dated 23rd August 1967 determining the terms and conditions of service of the Chief Justice;
 - (iii) The Supreme Court (Salaries and Allowances of Judges) Order 1970 (S.I. 1970 No.3); and
 - (iv) The Supreme Court (Salaries and Allowances of Judges) Order 1971 (S.I. 1971 No.1).

CHAPTER 4:01**SUPREME COURT ORDER****ARRANGEMENT OF SECTIONS**

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CHAPTER 4:01

SUPREME COURT ORDER

S.I. 1967
No.223.
1967 c.4 (U.K.).

AN ORDER made under section 6 of the West Indies Act 1967 of the United Kingdom to make provision for a new Supreme Court consisting of a High Court and a Court of Appeal for the States of the Eastern Caribbean and to give these Courts jurisdiction in respect of Montserrat and the Virgin Islands; and to establish a Judicial and Legal Services Commission.

*Commence-
ment.
[16/1967].

[27th February 1967]

PART I
INTRODUCTORY

Citation,
commencement
and revocation.
[16/1967*].

1. (1) This Order may be cited as the --

SUPREME COURT ORDER.

(2) This Order shall come into operation on 27th February 1967:

Provided that the provisions of subsection (3) of this section and sections 18 to 23 of this Order shall come into operation on such later date (hereinafter referred to as "the prescribed date") as the Chief Justice may by Order prescribe.

(3) The Windward Islands and Leeward Islands (Courts) Order in Council 1959^(a), as amended^(b), (hereinafter referred to as "the Order of 1959") and the British Caribbean Court of Appeal Order in Council 1962^(c), as amended^(d), (hereinafter referred to as "the Order of 1962") are revoked in so far as they have effect as part of the law of each State:

*Section 1(3) and sections 18 to 23 came into operation on 24th April 1967.

^(a) S.I. 1959/2197 (1959 l.p. 563).

^(b) The relevant amending Orders are S.I. 1960/1658, 1962/1084, 1967/162 (1960 l.p. 473; 1962 ll.p. 1220).

^(c) S.I. 1962/1086 (1962 ll. 1247).

^(d) The relevant amending Orders are S.I. 1962/1245, 1962/1870, 1966/575; 1966/1455 (1962 ll.pp. 1367, 2186; 1966 ll.p. 3858).

Provided that the provisions of sections 21(2) and 22(5) of the Order of 1959 and article 9 of the Order of 1962 shall continue in force as part of the law of each State as if those Orders had not been revoked.

2. (1) In this Order "State" means any of the following, that is to say – Interpretation.

Antigua,
Dominica,
Grenada,
Saint Christopher, Nevis and Anguilla,
Saint Lucia, and
Saint Vincent.

(2) In this Order any reference to a State shall be construed as including a reference to its dependencies (if any).

(3) In this Order, unless the context otherwise requires, any reference to the holder of an office by the term designating his office shall be construed as including a reference to any person who, under and to the extent of any authority in that behalf, is for the time being performing the functions of that office.

(4) (a) Where any person has vacated any office established by or under this Order he may, if qualified, again be appointed to hold that office from time to time.

(b) A person may be appointed to an office established by or under this Order notwithstanding that some other person may be holding that office when that other person is on leave of absence pending the relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this paragraph, then, for the purposes of any function conferred upon the holder of that office, the person last appointed shall be deemed to be the sole holder of the office.

(5) Any act done for the purposes of this Order by the Judicial and Legal Services Commission or the interim Commission established by section 24 of this Order shall be signified in writing under the hand of the Chairman of the Commission.

(6) The Interpretation Act 1889 shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to, Acts of Parliament. 1889 c.63
(U.K.).

Application to
Saint Vincent.

3. Until such time as Saint Vincent assumes a status of association with the United Kingdom in accordance with the provisions of the West Indies Act 1967, references in this Order to the Premier of a State shall, in their application to Saint Vincent, be construed as references to the Administrator of St. Vincent, acting in his discretion.

PART II

THE SUPREME COURT

Establishment of
Supreme Court.
S.I. 1975 No.2.
S.I. 1978
No.1027. (U.K.).
S.I. 1985 No.2.
S.I. 1985 No.3.

4. (1) There shall be a Supreme Court for the States which shall be styled the Eastern Caribbean Supreme Court and shall be a superior court of record.

(2) The Supreme Court shall consist of a Court of Appeal and a High Court of Justice.

(3) Subject to the provisions of subsection (5) of this section, the Judges of the Court of Appeal shall be the Chief Justice, who shall be President of the Court, and three Justices of Appeal.

(4) Subject to the provisions of subsection (5) of this section, the Judges of the High Court shall be the Chief Justice and nine Puisne Judges.

(5) The number of Justices of Appeal and of Puisne Judges of the High Court may be varied by Order of the Chief Justice made with the concurrence of the Premiers of all the States:

Provided that no office of Justice of Appeal or Puisne Judge shall be abolished while there is a substantive holder thereof without the consent of the holder thereof.

(6) The Court of Appeal and the High Court shall be deemed to be duly constituted notwithstanding a vacancy in the office of any Judge of the Court.

(7) The Court of Appeal and the High Court shall each have and use a seal bearing the style of the Court and a device approved by the Chief Justice.

Appointment of
Judges.

5. (1) The Chief Justice shall be appointed by Her Majesty by Letters Patent and the Justices of Appeal and the Puisne Judges shall be appointed on behalf of Her Majesty by the Judicial and Legal Services Commission.

- (2) A person shall not be qualified to be appointed –
- (a) as Chief Justice or a Justice of Appeal unless –
 - (i) he has been for a period or periods amounting in the aggregate to not less than five years a Judge of a Court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a Court having jurisdictions in appeals from such a Court; or
 - (ii) he is qualified to practice as an advocate in such a Court, and has so practised, for a period of, or periods amounting in the aggregate to, not less than fifteen years;
 - (b) as a Puisne Judge unless –
 - (i) he is or has been a Judge of a Court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a Court having jurisdiction in appeals from such a Court; or
 - (ii) he is qualified to practice as an advocate in such a Court, and has so practised, for a period of or periods amounting in the aggregate to, not less than ten years.

(3) For the purposes of subsection (2) of this section references in that subsection to a period or periods during which a person has practised as an advocate in any such Court as is mentioned in that subsection shall be construed as including a period or periods during which a person –

- (a) has been serving in the office of Judge of any such Court; or
- (b) after having become qualified to practise as an advocate in any such Court, has been serving in a public office in some part of the Commonwealth the functions of which include appearing as an advocate in any such Court or in the office of Magistrate, or Registrar of a Court, in some part of the Commonwealth.

6. (1) The Judicial and Legal Services Commission may designate generally or for a specific occasion one of the Justices of Appeal to act as Chief Justice in the event that the office of the Chief Justice is vacant or that the Chief Justice is for any reason unable to perform the functions of his office. Acting Judges.

(2) If one of the Justices of Appeal is acting as Chief Justice or if the office of a Justice of Appeal or a Puisne Judge is vacant or if a Justice of Appeal or a Puisne Judge is for any reason unable to perform the functions of his office, the Judicial and Legal Services Commission may appoint a person qualified for appointment as a Justice of Appeal or Puisne Judge to act as a Justice of Appeal or Puisne Judge, as the case may be.

(3) A person appointed under this section to act as Chief Justice, a Justice of Appeal or a Puisne Judge shall (unless he earlier resigns his appointment or is removed therefrom in pursuance of the provisions of section 8 of this Order) continue to act in that office for the period, if any, for which he was appointed or until a person has been appointed to and assumed, or has resumed, the functions of that office, as the case may be.

(4) Any person appointed to the office of, or to act as, Chief Justice, Justice of Appeal or Puisne Judge may, notwithstanding the vacation of his office or the termination of his appointment otherwise than in pursuance of the provisions of section 8 of this Order, sit as a Judge for the purpose of giving judgment or otherwise in relation to any proceeding heard by him while he was holding the office of Judge.

Oaths.

7. Every person appointed to be a Judge of the Court of Appeal or the High Court shall, before entering upon his functions as such, take the oaths set out in Schedule 1 to this Order.

Schedule 1.

Tenure of office
of Judges.
[18 of 1983].

8. (1) Subject to the following provisions of this section, a Judge of the Court of Appeal shall hold office until he attains the age of sixty-eight years and a Puisne Judge shall hold office until he attains the age of sixty-five years:

Provided that the Judicial and Legal Services Commission acting with the concurrence of the Premiers of all the States may permit a Judge to continue in his office after attaining the age prescribed in this subsection for a period or periods not exceeding in the aggregate three years.

(2) The provisions of subsection (1) of this section shall not apply to a person appointed to act as a Judge of the Court of Appeal or the High Court in respect of his acting appointment.

(3) A Judge may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of

body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the following provisions of this section.

(4) The Chief Justice may be removed from office by order of Her Majesty and other Judges of the Supreme Court shall be removed from office by order of the Judicial and Legal Services Commission if the question of the removal from office has, in pursuance of the next following subsection, been referred to the Judicial Committee of Her Majesty's Privy Council under any enactment enabling Her Majesty in that behalf and the Judicial Committee has advised Her Majesty that the Chief Justice or the Judge, as the case may be, ought to be removed from office for inability as aforesaid or misbehaviour.

(5) If, in the case of the Chief Justice, the Premier of one of the States to which this Order applies represents to the Lord High Chancellor of Great Britain or if, in the case of any other Judge of the Supreme Court, the Judicial and Legal Services Commission represents to the Chief Justice that the question of removing the Chief Justice or other Judge, as the case may be, for inability as aforesaid or for misbehaviour ought to be investigated, then –

- (a) the Lord Chancellor or the Chief Justice, as the case may be, shall appoint a tribunal which shall consist of a Chairman and not less than two other members selected by the Lord Chancellor or the Chief Justice, as the case may be, from among persons who hold or have held office as a Judge of a Court of unlimited jurisdiction in criminal and civil matters in some part of the Commonwealth or as a Judge of a Court having jurisdiction in appeals from any such Court; and
- (b) that tribunal shall enquire into the matter and report on the facts thereof to the Lord Chancellor or the Chief Justice, as the case may be, and recommend whether the question of the removal of the Chief Justice or other Judge, as the case may be, should be referred by Her Majesty to the Judicial Committee.

(6) The provisions set out in Schedule 2 to this Order shall Schedule 2. apply in relation to tribunals appointed under the last foregoing subsection or to the members thereof.

(7) If the question of removing the Chief Justice or other Judge of the Supreme Court has been referred to a tribunal under subsection

(5) of this section the Lord Chancellor, in the case of the Chief Justice, or the Judicial and Legal Services Commission, in the case of any other Judge of the Court, may suspend the Chief Justice or other Judge, as the case may be, from performing the functions of his office.

(8) Any such suspension may at any time be revoked by the Lord Chancellor or the Judicial and Legal Services Commission, as the case may be, and shall in any case cease to have effect –

(a) if the tribunal recommends that the question of the removal of the Judge from office should not be referred by Her Majesty to the Judicial Committee; or

(b) if the Judicial Committee advises that the Judge ought not to be removed from office.

(9) Any expenses, in connection with proceedings under this section, authorised by the Lord Chancellor or the Chief Justice, as the case may be, shall be regarded as part of the expenses of the Supreme Court.

Jurisdiction in
the States.

9. (1) The High Court shall have, in relation to a State, such jurisdiction and powers as may be conferred on it by the Constitution or any other law of the State.

(2) The Court of Appeal shall have, in relation to a State, such jurisdiction to hear and determine appeals and to exercise such powers as may be conferred upon it by the Constitution or any other law of the State.

(3) The process of the Supreme Court shall run throughout the States and any judgment of the Court shall have full force and effect and may be executed and enforced in any of the States.

(4) The provisions of subsection (3) of this section shall be without prejudice to the provisions of the constitution of each State relating to fundamental rights and freedoms.

Jurisdiction in
other territories.

10. The High Court and Court of Appeal may exercise such jurisdiction and powers, and any Judge or the Chief Registrar of the Supreme Court may exercise such functions, as may be conferred upon them respectively in relation to Montserrat or the Virgin Islands by or under any law in force in Montserrat or the Virgin Islands, as the case may be.

PART III
GENERAL

11. (1) The Chief Justice, the Justices of Appeal and the Puisne Judges shall be paid the salaries specified in Schedule 3 to this Order, and shall be entitled to such allowances and shall have such terms and conditions of office as may from time to time be determined by the Judicial and Legal Services Commission with the concurrence of the Premiers of all the States:

Remuneration,
etc. of Judges.
Schedule 3.

Provided that –

- (a) the salaries specified in Schedule 3 to this Order may be altered by Order made by the Judicial and Legal Services Commission with the concurrence of the Premiers of all the States;
- (b) the salary and allowances (other than allowances which are not taken into account in the computation of pensions) of a Judge shall not be reduced and the terms and conditions of office applicable to a Judge upon his appointment shall not be made less favourable to him during the currency of that appointment.

(2) Where a Judge is entitled to exercise an option in relation to his salary or the other matters referred to in proviso (b) to subsection (1) of this section, the option as exercised by him shall be deemed for the purposes of that proviso to be in his favour.

12. (1) There shall be, for all the States, an office of Chief Registrar and such other offices of the Supreme Court as the Chief Justice may from time to time prescribe by Order made with the concurrence of the Premiers of all the States; and the holders of such offices shall be paid such salaries and allowances and shall have such terms and conditions of office as may from time to time be determined by the Chief Justice with the concurrence of the Premiers of all the States.

Chief Registrar
and other
officers.

(2) Power to make appointments to the office of Chief Registrar and to the other offices prescribed under this section and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial and Legal Services Commission.

(3) Power to make appointments to offices conferred by the provisions of this section shall be construed as including power to

appoint a person to perform the functions of any such office during any period during which it is vacant or the holder thereof is unable for any reason to perform those functions.

(4) The power to constitute offices and make appointments thereto conferred by this section shall be in addition to any power conferred by the Constitution of any State to constitute the offices of and appoint for that State a Registrar and other officers of the High Court.

Pensions of
Judges, Chief
Registrar and
other officers.

13. (1) For the purposes of any laws, regulations and other instruments relating to the grant of pensions, gratuities and other like benefits the Judges, Chief Registrar and the holders of the other offices of the Supreme Court referred to in section 12(1) of this Order shall be in the service of such State as the Chief Justice may, in each case, from time to time direct; and any such direction given by the Chief Justice shall take effect as from such date as may be specified by the Chief Justice and shall have effect as an appointment to a pensionable office in that service.

(2) Where by virtue of this section any payment is made out of the funds of a State the Governments of the other States shall pay to the Government of that State the proportions of that payment specified by or under section 15 of this Order; and the sums that are required by virtue of this subsection to be paid by the Government of any State are hereby charged on the Consolidated Fund of that State.

Resignations.

14. (1) Any person who is appointed to any office established by or under this Order may resign from that office by writing under his hand addressed, in the case of the Chief Justice, to the Lord Chancellor and, in any other case, to the Chairman of the Judicial and Legal Services Commission.

(2) The resignation of any person from any such office shall take effect when the writing signifying the resignation is received by the Lord Chancellor or the Chairman, as the case may be.

Expenses of the
Court.

15. The expenses of the Supreme Court (including the remuneration and allowances referred to in section 11 of this Order but less any sums that may be paid towards the expenses by the Governments of Montserrat and the Virgin Islands) shall, except as otherwise provided by agreement between the Governments of all the States, be borne by the Governments of the States in equal proportions; and the sums that

are required by virtue of this section or any such agreement to be paid by the Government of any State are hereby charged on the Consolidated Fund of that State.

16. The Chief Justice shall assign a Puisne Judge to each State who shall reside in the State to which he is assigned.

Posting of
Judges.

17. (1) Subject to the provisions of this Order and any other law in force in any of the States, the Chief Justice and any other two Judges of the Supreme Court selected by him may make rules of court for regulating the practice and procedure of the Court of Appeal and the High Court in relation to their respective jurisdiction and powers in respect of any of the States.

Rules of court.

(2) Without prejudice to the generality of the foregoing subsection such rules may be made for any of the following purposes:

- (a) for regulating the sittings of the Court of Appeal and the High Court and the selection of Judges for any purpose;
- (b) for prescribing forms and fees in respect of proceedings in the Supreme Court and relating to costs of an incidental to any such proceedings;
- (c) for prescribing the times in which any requirement of the rules is to be complied with;
- (d) for prescribing and regulating the powers and duties of the Chief Registrar, Registrars and officers of court;
- (e) for providing for summary determination of any appeal which appears to the Court to be frivolous or vexatious or to be brought for the purposes of delay;
- (f) for prescribing cases in which, and conditions upon which, an appellant in a criminal appeal shall be entitled to be present at the hearing of the appeal;
- (g) for providing for a reference from a decision of a single Judge of the Court of Appeal to the Court of Appeal;
- (h) for regulating the right of practising before the Supreme Court and the representation of persons concerned in any proceedings therein.

(3) Rules made under this section may fix the number of Judges of the Court of Appeal who may sit for any purpose:

Provided that –

- (a) an uneven number of Judges shall sit, which for the purposes of any final determination by the Court other than the summary dismissal of an appeal, shall not be less than three; and
- (b) any determination by the Court on any matter (whether final or otherwise) shall, where more than one Judge sits, be according to the opinion of the majority of the Judges who sit for the purpose of determining that matter.

(4) Rules made under this section may provide for and regulate the execution and enforcement in any State of the process of the Court of Appeal or the High Court in exercise of any powers and jurisdiction conferred upon it in pursuance of section 9 or 10 of this Order.

(5) No rule of court which may involve an increase in the expenses of the Supreme Court shall be made except with the concurrence of the Premiers of all the States; but the validity of a rule of court shall not in any proceedings in any Court be called in question on the ground only that it was a rule to which the concurrence of the Premiers was necessary and that they did not concur or are not expressed to have concurred in the making thereof.

PART IV

JUDICIAL AND LEGAL SERVICES COMMISSION

Establishment of
Commission.
[18 of 1983].

18. (1) There shall be a Judicial and Legal Services Commission (hereinafter referred to as the “Commission”) for the States which shall consist of the following persons, that is to say –

- (a) the Chief Justice, who shall be the Chairman;
- (b) such Justice of Appeal or Puisne Judge as may from time to time be designated in that behalf by the Chief Justice;
- (c) a person, appointed by the Chief Justice with the concurrence of the Premiers of not less than four of the States, who has been a Judge of a Court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a Court having jurisdiction in appeals from any such Court, not being a person who is practising as an advocate before the Supreme Court; and

(d) two members selected in accordance with the provisions of subsection (2) of this section.

(2) The persons for the time discharging the functions of Chairman of the Public Service Commissions of two States, being States for the time being designated in that behalf by the Chief Justice, shall be *ex-officio* members of the Commission:

Provided that –

(a) except as otherwise provided in any agreement between the Governments of all the States, the Chief Justice shall designate States in such manner that the Chairman of the Public Service Commissions of the States sit as members of the Commission in rotation for periods of three years, the order of rotation among the States to be as follows:

- (i) Antigua and Barbuda;
- (ii) Commonwealth of Dominica;
- (iii) Saint Christopher and Nevis;
- (iv) Saint Lucia;
- (v) Saint Vincent and the Grenadines; and

(b) where the Chairman of the Public Service Commission of any designated State is in practice as an advocate before the Supreme Court, that Public Service Commission shall nominate another of its members, not being a person so in practice, to sit on the Commission in his stead.

(3) The office of the appointed member of the Commission shall become vacant –

- (a) at the expiration of three years from the date of his appointment;
- (b) if he practises as an advocate before the Supreme Court; or
- (c) if the question of his ceasing to be a member of the Commission has been referred by the Chief Justice, acting on the recommendation of the Premiers of not less than four of the States, to a tribunal consisting of a Chairman and two other persons appointed by the

Chief Justice, and that tribunal has recommended that such person should cease to be a member of the Commission.

(4) The Commission shall not be disqualified for the transaction of business by reason of any vacancy amongst its members.

Functions and
procedure of
Commission.

19. (1) The Commission shall perform such functions as are conferred on it by this Order or any other law for the time being in force in any State.

(2) The Commission may by regulation or otherwise regulate its own procedure and confer powers and impose duties on any officer or authority of the Government of a State for the purposes of the exercise of its functions:

Provided that, except in the case of an officer of the High Court, no such powers or duties shall be conferred upon any officer in the public service of a State without the consent of the Premier of the State.

Staff.

20. The Commission may employ such officers as are necessary for the purpose of the exercise of its functions as the Chairman with the concurrence of the Premiers of all the States may appoint.

Expenses.

21. The members of the Commission other than the Chief Justice and the Justice of Appeal or Puisne Judge, shall be paid such remuneration as the Chief Justice may with the concurrence of the Premiers of all the States prescribe; and the Governments of the States shall, except as otherwise provided by agreement between the Governments of all the States, contribute in equal proportions to the expenses of the Commission; and the sums that are required by virtue of this section to be paid by the Government of any State are hereby charged on the Consolidated Fund of that State.

PART V

TRANSITIONAL PROVISIONS

Pending
Proceedings.

22. (1) Any proceedings originating in any of the States and pending immediately before the prescribed date in the British Caribbean Court of Appeal or in the Supreme Court or the Court of Appeal of the Windward Islands and Leeward Islands may be continued and concluded on or after that date –

- (a) in the case of proceedings pending in the British Caribbean Court of Appeal, in the Court of Appeal; and
- (b) in the case of proceedings pending in the Supreme Court or the Court of Appeal of the Windward Islands and Leeward Islands, in the High Court.

(2) An appeal shall lie to the Court of Appeal on and after the prescribed date from any judgment of the Supreme Court of the Windward Islands and Leeward Islands given before the prescribed date in any proceedings originating in any of the States as if it were a judgment of the High Court.

(3) Any judgment of the British Caribbean Court of Appeal that was given but not satisfied before the prescribed date in any proceedings originating in any of the States may be enforced on or after the prescribed date as if it were a judgment of the Court of Appeal and any such judgment of the Court of Appeal or the High Court of the Windward Islands and Leeward Islands may be so enforced as if it were a judgment of the High Court.

(4) Until such time as other provision is made in that behalf by any law in force in a State, an appeal shall lie to the High Court from the decision of a Magistrate in that State in any case in which an appeal would have lain to the Court of Appeal of the Windward Islands and Leeward Islands if the Order of 1959 had not been revoked.

23. (1) Any rule of court made under or kept in force by the Order of 1959 or the Order of 1962 and having effect as part of the law of a State immediately before the prescribed date shall continue in force on and after that date notwithstanding the revocation of those Orders. Existing laws, etc.

(2) Any law (including any rule of court) other than the Order of 1959 and the Order of 1962 having effect as part of the law of a State immediately before the prescribed date shall have effect on and after the prescribed date as if –

- (a) references therein to the British Caribbean Court of Appeal were references to the Court of Appeal; and
- (b) references therein to the Supreme Court or the Court of Appeal of the Windward Islands and Leeward Islands were references to the High Court.

(3) The foregoing provisions of this section shall be without prejudice to any powers conferred by any law in force in a State upon

any person or authority to make provision for any matter, including the amendment or revocation of any law (including any rule of court) having effect as part of the law of that State immediately before the prescribed date or the making on or after that date of rules of court so having effect.

Interim
Commission.

24. (1) Until the prescribed date, the powers conferred on the Judicial and Legal Services Commission by sections 5 and 12 of this Order may be exercised by an interim Commission consisting of –

- (i) the Chief Justice, who shall be the Chairman;
- (ii) one person, appointed by the Chief Justice, who is or has been a Judge of a Court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a Court having jurisdiction in appeals from any such Court; and
- (iii) three persons appointed by the Chief Justice with the concurrence of the Premiers or, as the case may be, Chief Ministers of not less than four of the States, one of whom has been a Judge of such a Court.

(2) A person who is in practice as an advocate before the Supreme Court established by the Order of 1959 shall not be appointed under subsection (1) of this section.

Terms of service
of Judges.

25. Until other provision is made under section 11(1) of this Order, the allowances of the Judges of the Court of Appeal and of the High Court and their terms and conditions of service, other than their salaries, shall be those to which the Judges of the Supreme Court established by the Order of 1959 were entitled or which were applicable to them immediately before the commencement of this Order.

Section 7.

SCHEDULE 1

Forms of Oaths and Affirmations

1. OATH OF ALLEGIANCE

I do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law. So help me God.

2. AFFIRMATION OF ALLEGIANCE

I do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law.

3. OATH FOR DUE EXECUTION OF OFFICE

I do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of (*here insert the description of the office*). So help me God.

4. AFFIRMATION FOR DUE EXECUTION OF OFFICE

I do solemnly and sincerely affirm and declare that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of (*here insert the description of the office*).

SCHEDULE 2

Section 8(6).

*Provisions applying in relation to tribunals appointed
under section 8(5)*

1. The members of a tribunal may make such rules for their own guidance, and the conduct and management of proceedings before them and the hours and times and places for their sittings, as they may, from time to time, think fit, and may, from time to time, adjourn for such time and to such place as they may think fit.

2. The members of a tribunal shall have the powers of a Judge of the High Court to summon witnesses, and to call for the production of books and documents, and to examine witnesses on oath, and no member shall be liable to any action or suit for any matter or thing done by him as such.

3. Any person whose conduct is the subject of inquiry by a tribunal shall be entitled to, and any other person may by leave of the tribunal, be represented by counsel at the whole of the inquiry.

4. Any witness who shall wilfully give false evidence in any such inquiry, concerning the subject matter of such inquiry, shall be guilty of perjury, and be liable to be prosecuted and punished accordingly.

5. All persons summoned to attend and give evidence or to produce documents or any other matter at any sitting of a tribunal, shall be bound to obey the summons served upon them as fully, in all respects, as witnesses are bound to obey subpoenas issued from the High Court, and shall be entitled to the like expenses as if they had been summoned to attend the High Court on a criminal trial, if the same shall be allowed by the tribunal, but the tribunal may disallow the whole or any part of such expenses in any case, if they think fit. Orders for the payment of such witnesses shall be made, as nearly as may be, as orders are made for the payment of witnesses at the High Court. Every person refusing or omitting, without sufficient cause to attend at the time and place mentioned in the summons served on him, and every person attending, but leaving the enquiry without the permission of the tribunal, or refusing to answer, or to answer fully and satisfactorily to the best of his knowledge and belief, all questions put to him by or with the concurrence of the tribunal, or refusing or omitting, without sufficient cause, to produce any documents or other matters in his possession or under his control and mentioned or referred to in the summons served on him, and every person who shall, at any sitting of a tribunal, wilfully insult any member or servant of the tribunal or wilfully interrupt the proceedings of the tribunal, shall be liable, on summary conviction, to a penalty not exceeding two hundred dollars.

6. No statement made by any person who is called as a witness before a tribunal in answer to any question put by or with the concurrence of the tribunal shall, except in cases of indictments for perjury, be admissible in evidence in any civil or criminal proceedings.

SCHEDULE 3

Salaries of Judges of Supreme Court

Section 11.
[S.I. 1975 No.1.
S.I. 1978 No.1.
S.I. 1982 No.1.
S.I. 1985 No.1.
S.I. 1989 No.2].

Chief Justice.....	\$105,600 per year
Justice of Appeal.....	\$ 85,800 per year
Puisne Judge.....	\$ 72,600 per year

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes provision for a new Supreme Court consisting of a High Court and a Court of Appeal for Antigua, Dominica, Grenada, Saint Christopher, Nevis and Anguilla, Saint Lucia, and Saint Vincent. Provision is also made so that these Courts may be given jurisdiction in respect of Montserrat and the Virgin Islands. The Order establishes a Judicial and Legal Services Commission.

SUBSIDIARY LEGISLATION

21/1968. SUPREME COURT (QUEEN'S COUNSEL) RULES

made under section 17

Commencement.

[1st July 1968]

Short title.

1. These Rules may be cited as the –
SUPREME COURT (QUEEN'S COUNSEL) RULES.

Application.

2. These Rules shall apply to the States as defined in rule 3.

Interpretation.

3. In these Rules unless it is expressly provided to the contrary or the context otherwise requires –

“State” means any of the following with its dependencies (if any), that is to say –

Antigua,
Dominica,
Grenada,
Saint Christopher, Nevis and Anguilla,
Saint Lucia, and
Saint Vincent;

“Supreme Court” means the Eastern Caribbean Supreme Court established by section 4 of the Supreme Court Order.

Ch. 4.01.

Right of
audience of
Queen's
Counsel.

4. Queen's Counsel appointed in any of the States, in Montserrat or in the Virgin Islands, by letters patent issued on or after the twenty-fourth day of April one thousand nine hundred and sixty-seven shall have the right to practise as such and the customary right of preaudience before the Supreme Court in all the States.
-

SUBSIDIARY LEGISLATION

**SUPREME COURT (SALARIES, ALLOWANCES AND
CONDITIONS OF SERVICE OF JUDGES) ORDER**

made under section 11(1)

[1st January 1974]

S.I. 1975 No.1.
[S.I. 1976 No.1
S.I. 1978 No.1
S.I. 1982 No.1
S.I. 1985 No.1
S.I. 1989 No.1*
S.I. 1989 No.2].

Commencement.

1. This Order may be cited as the –

Short title.

**SUPREME COURT (SALARIES, ALLOWANCES AND
CONDITIONS OF SERVICE OF JUDGES) ORDER.**

2. (1) In this Order “Judge” means any Puisne Judge appointed under the Supreme Court Order and includes a Justice of Appeal and the Chief Justice.

Interpretation.
Ch. 4:01.

(2) References in this Order to the Chief Justice, a Justice of Appeal, a Puisne Judge or a Judge shall be references to the Chief Justice, a Justice of Appeal, a Puisne Judge or a Judge, respectively, of the Eastern Caribbean Supreme Court, in Grenada styled the Supreme Court of Grenada and the West Indies Associated States, and shall include references to a person acting in the office of Chief Justice, a Justice of Appeal, a Puisne Judge or a Judge, respectively, of that Court.

(3) References in this Order to a State shall include references to Grenada.

3. Schedule 3 to the Supreme Court Order is hereby revoked and replaced as follows:

Amendment of
Schedule 3 to
Order.

SCHEDULE 3

SALARIES OF JUDGES OF SUPREME COURT

Chief Justice.....	\$105,600 per year
Justice of Appeal.....	\$ 85,800 per year
Puisne Judge.....	\$ 72,600 per year.

Section 11.
[S.I.1978 No.1.
S.I.1982 No.1
S.I.1985 No.1
S.I.1989 No.2].

*This Order which amends the Principal Order has not been incorporated herein and is published as an addendum to this Order.

[Subsidiary]

*Supreme Court (Salaries, Allowances and
Conditions of Service of Judges) Order*

Residence.

4. (1) Each Judge is entitled to be provided with a fully furnished residence free of rent.

(2) The scale of furniture allotted to the Judge's furnished residence shall be subject to the approval of the Chief Justice.

Travelling and
duty allowance.
[S.I. 1976 No.1
S.I. 1978 No.1
S.I. 1982 No.1
S.I. 1985 No.1
S.I. 1989 No.2].

5. (1) A Judge is entitled to reimbursement by Government in respect of the actual cost of travelling on duty between the State in which he resides and any place outside that State (including the cost of travelling, within any State, between his place of residence and the place of embarkation and disembarkation, as the case may be) by such means as may be approved by the Chief Justice.

(2) A Judge shall be paid a travelling allowance at the rate of seven hundred dollars per month.

Board and
lodging.

6. A Judge shall be reimbursed in respect of the actual cost of board and lodging (including meals) while out of the State in which he resides on duty.

Subsistence
allowance.
[S.I. 1978 No.1
S.I. 1985 No.1].

7. (1) A Judge resident in St. Kitts shall be entitled to a subsistence allowance of five dollars for each day or part of a day spent on duty in Nevis or Anguilla.

(2) The Chief Justice shall be entitled to a subsistence allowance of sixty dollars and a Justice of Appeal fifty dollars for each day or part of a day spent on duty outside the headquarters State.

(3) Subject to subsections (4) and (5) a Puisne Judge shall be entitled to a subsistence allowance of fifty dollars for each day or part of a day spent on duty outside the State in which he resides.

(4) Where a Judge is assigned for duty to a State other than the State in which he resides for a period exceeding three months he shall not be entitled to the subsistence allowance under subsection (3) unless he is maintaining a home for himself or his family in the State in which he resides.

(5) Where a Judge is assigned for duty to a State other than the State in which he resides for a period exceeding six months and is entitled to subsistence allowance under subsections (3) and (4), the subsistence allowance payable to him from the beginning of the seventh month shall be at the reduced rate of five dollars for each day or part of a day.

8. The Chief Justice shall be entitled to be paid an entertainment allowance at the rate of six thousand dollars per annum, and each other Judge an entertainment allowance at the rate of three thousand dollars per annum.

Entertainment allowance.
[S.I. 1976 No.1
S.I. 1989 No.2].

9. All allowances paid to a Judge shall be free of income tax.

Allowances free of income tax.

10. (1) A Judge is not entitled as of right to leave or leave passages.

Leave and leave passages.

(2) Leave is granted subject to the exigencies of the public service and the sums payable in respect of leave passages may be modified from time to time according to availability of public funds.

(3) The Chief Justice shall be entitled –

(a) to forty-two days vacation leave annually and such leave may be accumulated up to a maximum of one hundred and sixty-eight days;

(b) to twenty-four days departmental leave annually; and

(c) to twenty-eight days sick leave annually.

(4) A Judge other than the Chief Justice is eligible for forty-two days vacation leave annually of which not less than fourteen days must be taken annually either in one period or in a series of periods according to the requirements of the Judicial and Legal Services Commission; and such leave may be accumulated up to a maximum of one hundred and twenty-six days.

(5) A Judge is eligible for leave passages every four years which may be –

(a) a return air passage, twice during the period he holds the office of a Judge, for himself and his wife and half the cost of one adult return air passage in respect of his children to the United Kingdom or to some other destination provided that the cost of the passages to that destination does not exceed the cost of passages to the United Kingdom; and

(b) on other occasions an amount to be spent on air passages, equal to two and one half times the cost of a return air passage to any destination in the Caribbean specified for the purposes of this section by the Judicial and Legal Services Commission.

(6) A Judge is also eligible for passages on first appointment to the State to which he is assigned for duty and for passages on retirement to his country of origin or to another place of retirement provided that the cost involved does not exceed the cost of passages to his country of origin. Passages on retirement are normally only granted where a Judge has completed three years of service since his last overseas leave.

(7) Leave passages as prescribed by subsections (5) and (6) are provided for the Judge, his wife and children who are under the age of eighteen years, unmarried, and dependent upon him, provided that:

- (i) the cost of passages is limited to the equivalent of first class air travel; and
- (ii) the amount to be granted shall not exceed the cost of two and one half adult return passages at the rate prescribed in sub-paragraph (i) above;
 - (a) to the place where the leave is to be taken if the leave is taken within the territories covered by the jurisdiction of the Court, Barbados, Jamaica and Trinidad;
 - (b) to the United Kingdom if the leave is taken outside the territories covered by the jurisdiction of the Court, Barbados, Jamaica and Trinidad.

Pensions.
Schedule.

11. In computing the pension of a Judge who on retirement from the service holds one of the offices mentioned in the Schedule to this Order the additions in the said Schedule mentioned shall be made to his period of service; but no addition shall be made which together with the number of years of his actual pensionable service shall amount to more than four hundred months.

Section 11.

SCHEDULE

Chief Justice
Justice of Appeal
Puisne Judge

Ten years.
Seven years.
Five years.

ADDENDUM*

[S.I. 1989 No.1]

1. This Order may be cited as the –

Short title.

**SUPREME COURT (SALARIES, ALLOWANCES AND
CONDITIONS OF SERVICE OF JUDGES) (AMENDMENT)
ORDER, 1989**

and shall be read as one with the Supreme Court (Salaries, Allowances and Conditions of Service of Judges) Order 1975 (S.I. 1975, No. 2) as amended (hereinafter referred to as the "Principal Order").

2. Section 11 of the Principal Order as amended by Statutory Instrument No. 38 of 1983 is hereby revoked and replaced as follows:

Amendment of
Section 2 of
Principal Order.
S.I. 1975 No. 2.

"The salary and pension of a Judge, and any gratuity or pension payable to his widow, shall not attract or be liable to income tax, levy, or any other charge."

3. This Order shall be deemed to have come into operation on the 1st day of July, 1989.

Commencement.

*See footnote at the beginning of the Principal Order.

SUBSIDIARY LEGISLATION

24/1969.

**JUDGES OF THE SUPREME COURT - TERMS AND
CONDITIONS OF SERVICE (SICK LEAVE) REGULA-
TIONS.***made under section 11*

Commencement.

[2nd October 1969]

Short title.

1. These Regulations may be cited as the –
JUDGES OF THE SUPREME COURT - TERMS AND
CONDITIONS OF SERVICE (SICK LEAVE) REGULATIONS.

Grant of sick
leave.

2. Such leave shall be granted to Judges of the Eastern Caribbean
Supreme Court as follows :

(1) A Judge may be allowed sick leave on full pay for an aggregate of not more than twenty-eight days in any calendar year, subject to the submission of a medical certificate for any period of continuous absence exceeding two days.

(2) If there is a reasonable prospect of eventual recovery and subject to the submission of medical evidence, sick leave may be granted on full pay up to a maximum of one hundred eighty days during any period of twelve months; sick leave in excess of one hundred eighty days may be granted on half pay, but more than an overall maximum of three hundred and sixty-five days sick leave shall not be granted in any period of four years:

Provided that in special cases the Judicial and Legal Services Commission may in its discretion grant additional sick leave without pay.

(3) Where prolonged sick leave is necessary the Judge may be required to attend before a Medical Board.

(4) Any period of illness occurring during vacation leave shall be counted against vacation leave and in such circumstances sick leave shall not be granted to a Judge until he has exhausted the vacation leave for which he is eligible.

(5) Sundays and Public Holidays occurring within a period of sick leave are reckoned as part of that leave but a Sunday or Public Holiday occurring at the beginning or the end of the period of sick leave is not reckoned as leave.

(6) Sick leave up to twenty-eight days may be granted by the Chief Justice and in excess of twenty-eight days by the Judicial and Legal Services Commission.

(7) Absence on sick leave, but not exceeding one hundred eighty days in any period of twelve months, shall for the purposes of calculating eligibility for vacation leave be deemed to be resident service.

[Subsidiary]

Supreme Court Offices (Salary and
Allowances of Chief Registrar) Order

SUBSIDIARY LEGISLATION

10/1970.
[S.I. 1976 No.2].

**SUPREME COURT OFFICES (SALARY AND
ALLOWANCES OF CHIEF REGISTRAR) ORDER**

made under section 12

Commencement.

[1st January 1970]

Short title.

1. This Order may be cited as the –

SUPREME COURT OFFICES (SALARY AND
ALLOWANCES OF CHIEF REGISTRAR) ORDER.

Interpretation.

2. In this Order –

“Chief Registrar” means the person holding the office of Chief Registrar of the Eastern Caribbean Supreme Court established by section 12 of the Supreme Court Order and includes any person performing the functions thereof under subsection (3) of the said section.

Ch.4:01.

Salary and
Allowances of
Chief Registrar.
[S.I. 1976 No.2].

3. So long as the office of Chief Registrar is held by a person who also holds the office of a Registrar of the High Court the holder shall be entitled to be paid an allowance as additional salary in respect of his services as Chief Registrar at the rate of four thousand eight hundred dollars per annum over and above his basic salary as Registrar of the High Court.

SUBSIDIARY LEGISLATION

**JUDICIAL AND LEGAL SERVICES
COMMISSION REGULATIONS.**

26/1967.

made under section 19(2)

[16th November 1967]

Commencement.

1. These Regulations may be cited as the –

Short title.

**JUDICIAL AND LEGAL SERVICES
COMMISSION REGULATIONS.**

2. In these Regulations unless the context otherwise requires –

Interpretation.

“Court of Appeal” means the Court of Appeal established by the
Supreme Court Order;

Ch. 4:01.

“the Commission” means the Judicial and Legal Services Commission
established by section 18 of the Supreme Court Order;

“member” means member of the Commission;

“High Court” means the High Court of Justice established under the
Supreme Court Order;

“public office” means any office of emolument in the public service;

“public officer” means the holder of any public office and includes any
person appointed to act in any such office;

“the public service” means the service of the State in a civil capacity in
respect of the Government of any of the States to which the
Supreme Court Order applies;

“regulation” means one of these Regulations;

“State” has the meaning ascribed to it by section 2 of the Supreme Court
Order.

3. The members of the Commission other than the Chairman shall
upon appointment take an oath or make an affirmation before the Chief
Justice in the form in the Schedule to these Regulations. The Secretary
to the Commission shall take an oath or make an affirmation before the
Chief Justice in a form approved by the Chief Justice.

Oath of Office.

Schedule.

[Subsidiary]

Headquarters,
 procedure and
 meetings.

4. (1) The headquarters of the Commission shall be situated in Grenada.

(2) The Commission shall meet as often as may be necessary for the purpose of performing its functions and such meetings shall be held at such places and at such times as the Chairman shall determine.

(3) The Chairman if present shall preside at meetings of the Commission and in the absence of the Chairman from any meeting the members present shall elect one of their members to preside at that meeting.

(4) All decisions at a meeting of the Commission shall be by a majority of the votes of the members present and voting.

(5) The Chairman shall have an original vote, and in the event of an equality of votes he shall have as well a casting vote.

Decisions other
 than at a
 meeting.

5. (1) Notwithstanding the provisions of regulation 4 decisions may also be made by the Commission without a meeting upon circulation of the relevant papers among the members. Members may notify their opinion on the matter or question in writing or by cable or by telephone. If in any such case a difference of opinion arises among the members or any member so requires, the matter or question shall be reserved for discussion at a meeting.

(2) Decisions made under this regulation shall be brought up for noting at the next meeting of the Commission.

Record of
 meetings and
 decisions.

6. (1) Minutes shall be taken of all decisions arrived at at a meeting or noted under regulation 5 and after circulation thereof shall be duly confirmed at the subsequent meeting.

(2) Any member who dissents from a decision may require that his dissent and reasons for dissenting be recorded in the minutes.

Consultation
 with other
 persons.

7. The Commission in considering any matter or question may consult with any public officer or other person as the Commission may consider it proper and desirable so to do and may request any public officer to attend and give evidence on oath before it and to produce any official documents relating to such matter or question.

Principles of
 selection.

8. For the purpose of exercising its functions in relation to appointments, whether substantive or acting, to any offices, the Commission

shall (without prejudice to its right to consider the application of any person whether or not already in the public service) consider the claims of all public officers eligible for appointment or promotion, may interview candidates for such appointments, and shall in respect of each candidate consider, amongst others, the following matters :

- (a) his qualifications;
- (b) his general fitness;
- (c) any previous employment of the candidate in the public service or in private practice;
- (d) previous public service or private practice in territories other than those to which the Supreme Court Order applies.

SCHEDULE

Regulation 3.

OATH (OR AFFIRMATION) OF OFFICE

I,do swear/solemnly and sincerely declare and affirm that I will well and truly serve Her Majesty Queen Elizabeth the Second in the Office of Member of the Judicial and Legal Services Commission established under the Supreme Court Order, 1967.

.....
Signature.

Sworn/Declared before me this day of 19.....

.....
Chief Justice.

[Subsidiary]

*Judicial and Legal Services Commission
(Remuneration) Order*

SUBSIDIARY LEGISLATION

34/1967.
[32/1977
21/1978].

**JUDICIAL AND LEGAL SERVICES COMMISSION
(REMUNERATION) ORDER**

made under section 21

Commencement.

[5th May 1967]

Short title.

1. This Order may be cited as the –

**JUDICIAL AND LEGAL SERVICES COMMISSION
(REMUNERATION) ORDER.**

Interpretation.

2. In this Order –

“Commission” means the Judicial and Legal Services Commission established by section 18 of the Supreme Court Order.

Ch. 4:01.

Remuneration of
certain members
of Commission.
[32/1977.
21/1978].

3. The members of the Commission other than the Chief Justice and the Justice of Appeal or Puisne Judge shall be paid the following remuneration, namely –

Ch. 4:01.

(a) the person appointed under paragraph (c) of subsection (1) of section 18 of the Supreme Court Order (that is to say, a retired Judge), salary at the rate of three hundred dollars per month;

(b) each of the persons selected in accordance with paragraph (d) of subsection (1) and subsection (2) of section 18 of the Supreme Court Order (that is to say, Chairmen of Public Service Commissions of two States), salary at the rate of two hundred dollars per month;

(c) the following expenses when incurred for the purpose of attending meetings, namely –

(i) the actual cost of passages not exceeding the cost of first class passages by air;

(ii) the cost of inland travelling;

(iii) hotel expenses;

(iv) the cost of flight insurance for a sum not exceeding fifty thousand dollars;

(d) subsistence allowance of twenty-five dollars a day.
