

CAYMAN ISLANDS



PARTITION ACT

(2025 Revision)

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PUBLISHING DETAILS

Revised under the authority of the *Law Revision Act (2020 Revision)*.

Cap 117 as amended by the Civil Partnership Law, 2020 [Law 35 of 2020], the Citation of Acts of Parliament Act, 2020 [Act 56 of 2020], the Cayman Islands Constitution Order 2009 (UKSI 2009 No. 1379) and the Cayman Islands Constitution (Amendment) Order 2020 (UKSI 2020 No. 1283).

Originally enacted —

Cap. 117-1st January, 1964.

Law 35 of 2020-4th September, 2020

Act 56 of 2020-7th December, 2020.

Originally made —

U.K. Order 2009-10th June, 2009

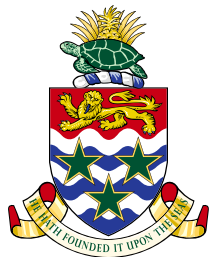
U.K. Order 2020-11th November, 2020.

Consolidated and revised this 31st day of December, 2024.

Note (not forming part of this Act): This revision replaces the 1997 Revision which should now be discarded.



CAYMAN ISLANDS



PARTITION ACT
(2025 Revision)

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CAYMAN ISLANDS



PARTITION ACT

(2025 Revision)

Short title

1. This Act may be cited as the *Partition Act (2025 Revision)*.

Definitions and interpretation

2. (1) In this Act —

“**action**” includes a suit;

“**Judge**” means a Judge of the Grand Court;

“**judgment**” includes a decree or order; and

“**the Court**” means the Grand Court.

- (2) For the purposes of this Act, an action for partition shall include an action for sale and distribution of the proceeds; and in an action for partition it shall be sufficient to claim a sale and distribution of the proceeds, and it shall not be necessary to claim a partition.

Power of Court to direct sale instead of division

3. In a suit of partition, where, if this Act had not been passed, a decree for partition might have been made, then if it appears to the Court that by reason of the nature of the property to which the suit relates, the number of the parties interested or presumptively interested therein, the absence or disability of some of those parties or any other circumstance, a sale of the property and a distribution of the proceeds would be more beneficial for the parties interested than a division of the property between or among them, the Court may, if it thinks fit, on the request of any of the parties interested, and notwithstanding the dissent or disability of any others of them, direct a sale of the property accordingly, and may give all necessary or proper consequential directions.

Sale on application of parties interested to the extent of one moiety

4. In a suit for partition, where, if this Act had not been passed, a decree for partition might have been made, then if the party or parties interested, individually or collectively, to the extent of one moiety or upwards in the property to which the suit relates, requests the Court to direct a sale of the property, and a distribution of the proceeds, instead of a division of the property between or among the parties interested, the Court shall, unless it sees good reason to the contrary, direct a sale of the property accordingly, and give all necessary or proper consequential directions.

Purchase of share of party desiring sale

5. In a suit for partition, where, if this Act had not been passed, a decree for partition might have been made, then if any party interested in the property to which the suit relates requests the Court to direct a sale of the property and a distribution of the proceeds instead of a division of the property between or among the parties interested, the Court may, if it thinks fit, unless the other parties interested in the property, or some of them, undertake to purchase the share of the party requesting a sale, direct a sale of the property, and give all necessary or proper consequential directions, and in case of such undertaking being given the Court may order a valuation of the share of the party requesting a sale in such manner as the Court thinks fit, and may give all necessary or proper consequential directions.

Request for sale or undertaking to purchase on behalf of persons under disability

6. In an action for partition a request for sale may be made, or an undertaking to purchase given, on the part of an infant, person of unsound mind or person under any other disability, by the next friend, guardian or other person authorised to act on behalf of the person under such disability; but the Court shall not be bound to comply with any such request or undertaking on the part of any infant unless it appear that the sale or purchase will be for that infant's benefit.



Terms on which parties interested may bid

7. On any sale under this Act, the Court may, if it thinks fit, allow any of the parties interested in the property to bid at the sale on such terms as to non-payment of deposit, or as to setting off, or accounting for the purchase money, or any part thereof, instead of paying the same, or as to any other matters as to the Court seem reasonable.

Parties to partition suits and proceedings therein

8. Any person who, if this Act had not been passed, might have maintained a suit for partition, may maintain such suit against any one or more of the parties interested, without serving the other or others, if any, of those parties; and it shall not be competent to any defendant in the suit to object for want of parties; and at the hearing of the cause the Court may direct such enquiries as to the nature of the property, the persons interested therein and other matters, as it thinks necessary or proper, with a view to an order for partition or sale being made on further consideration; but all persons who, if this Act had not been passed, would have been necessary parties to the suit, shall be served with notice of the decree or order on the hearing, and after such notice shall be bound by the proceedings as if they had been originally parties to the suit, and shall be deemed parties to the suit; and all such persons may have liberty to attend the proceedings; and any such person may, within a time limited by general orders, apply to the Court to add to the decree or order.

Power of Court in certain cases to dispense with service of notice of judgment

9. (1) Where, in an action for partition, it appears to the Court that notice of the judgment on the hearing of the cause cannot be served on all the persons on whom that notice is by this Act required to be served, or cannot be so served without expense disproportionate to the value of the property to which the action relates, the Court may, if it thinks fit, on the request of any of the parties interested in the property, and notwithstanding the dissent or disability of any others of them, by order dispense with that service on any person or class of persons specified in the order, and instead thereof may direct advertisements to be published, at such times and in such manner as the Court shall think fit, calling upon all persons claiming to be interested in such property who have not been so served to come in and establish their respective claims in respect thereof, before a Judge in Chambers, within a time to be thereby limited.
- (2) After the expiration of the time so limited, all persons who shall not have so come in and established such claims, whether they are within or without the jurisdiction of the Court (including persons under any disability), shall be bound by the proceedings in the action as if, on the day of the date of the order dispensing with service, they had been served with notice of the judgment service whereof is dispensed with; and thereupon the powers of the Court under section 10 shall extend to the interests of all such persons in the property to which the action relates as if they had been parties to the action; and the Court

may, if it shall think fit, direct a sale of property, and give all necessary or proper consequential directions.

Power to declare parties trustees, and to make orders thereon

- 10.** Where any decree shall be made in any partition suit for a sale or partition of any lands, it shall be lawful for the Court to declare that any party to the suit wherein such decree is made, is a trustee of such lands, or of any part thereof, and thereupon it shall be lawful for the Court to make such orders as to such trustees and lands as it might make concerning any other trustees or lands held in trust.

Provisions as to proceeds of sales of property where service of notice is dispensed with

- 11.** Where an order is made under this Act dispensing with service of notice on any person or class of persons, and property is sold by order of the Court —
- (a) the proceeds of sale shall be paid into Court to abide with further order of the Court;
 - (b) the Court shall, by order, fix a time at the expiration of which the proceeds will be distributed, and may, from time to time, by further order, extend that time;
 - (c) the Court shall direct such notices to be given, by advertisements or otherwise, as it thinks best adapted for notifying to any persons on whom service is dispensed with, who may not have previously come in and established their claims, the fact of the sale, the time of the intended distribution and the time within which a claim to participate in the proceeds must be made;
 - (d) if, at the expiration of the time so fixed or extended, the interests of all the persons or classes of persons interested have been ascertained, the Court shall distribute the proceeds in accordance with the rights so ascertained; and
 - (e) if, at the expiration of the time so fixed or extended, the interests of all the persons interested have not been ascertained, and it appears to the Court that they cannot be ascertained, or cannot be ascertained without expense disproportionate to the value of the property or of the unascertained interests, the Court shall distribute the proceeds in such manner as appears to the Court to be most in accordance with the rights of the persons whose claims to participate in the proceeds have been established, whether all those persons are or are not before the Court, and with such reservations, if any, as to the Court may seem fit in favour of any other persons (whether ascertained or not) who may appear, from the evidence before the Court, to have any *prima facie* rights which ought to be so provided for, although such rights may not have been fully established, but to the exclusion of all other persons; and thereupon all such other persons shall, by virtue of this



Act, be excluded from participation in those proceeds on the distribution thereof; but, notwithstanding the distribution, any excluded person may recover from any participating person any portion received by that participating person of the share of the excluded person.

How sale moneys to be paid

12. Any money to be paid under any sale made under this Act, may, if the Court thinks fit so to direct, be paid to any trustees approved by the Court, or be paid into the Treasury to attend the orders of the Court under any law enabling the Court to invest at interest the moneys of suitors as the Court may direct.

Provisions in case of two or more sales of property

13. Where, in an action for partition, two or more sales are made, if any person who has by virtue of this Act been excluded from participation in the proceeds of any of those sales establishes that excluded person's claim to participate in the proceeds of a subsequent sale, the shares of the other persons interested in the proceeds of the subsequent sale shall abate to the extent, if any, to which they were increased by the non-participation of the excluded person in the proceeds of the previous sale, and shall, to that extent, be applied in or towards payment to that person of the share to which that excluded person would have been entitled in the proceeds of the previous sale if that excluded person's claims thereto had been established in due time.

Powers and privileges of Commissioners in partition

14. Commissioners appointed by the Court in any suit for partition shall have the powers of a Judge to summon witnesses and to call for the production of books, plans and documents, and to examine witnesses and parties concerned on oath; and no Commissioner shall be liable to any action or suit for any matter or thing done by that person as such Commissioner. All summonses for the attendance of witnesses or other persons, or the production of documents, may be in the Form in the Schedule, and shall be signed by one of the Commissioners, and oaths may be administered by any one of the Commissioners.

Duties of witnesses

15. All persons summoned to attend and give evidence, or to produce books, plans or documents at any sitting of any Commissioners appointed by the Court in any suit for partition, 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 Court. Every person refusing or omitting without sufficient cause to attend at the time and place mentioned in the summons served on that person, and every person attending but leaving the Commission without permission of the Commissioners, or refusing without sufficient cause to answer, or to answer fully and satisfactorily to the best of that person's knowledge and belief all questions put to that person by or with the concurrence of the Commissioners, or refusing or omitting without sufficient cause to produce any books, plans or documents in that person's possession or under that person's control, and mentioned or referred to in the summons served on that person; and every person who, at any sitting of the Commission, wilfully insults any Commissioner, or wilfully interrupts the proceedings of the Commission, commits an offence and is liable on summary conviction to a fine of sixty dollars, and in default of payment to imprisonment, for three months.

Cost of Commissions and witnesses

16. The costs of all proceedings under any Commission shall be in the discretion of the Court, and shall be taxed as other costs are taxed, and the witnesses before the Commissioners shall be entitled to the same remuneration as that to which they would be entitled for giving evidence under similar circumstances in the suit before the Court.

Power as to costs

17. In any suit for partition the Court may make such order respecting costs as it thinks fit.

Power to make general orders, and effect thereof

18. It shall be lawful for the Chief Justice, from time to time, to make general orders for carrying out, in proceedings in the Court, this Act, and such orders may also prescribe the mode in which Commissions under any decree in any partition suit shall be executed, and the number of Commissioners that shall be appointed for executing such Commissions. All such orders shall take effect as general orders of the Court.



SCHEDULE

Summons to Witnesses

To A.B. (*name of person summoned, and that person's calling and residence, if known*).

You are hereby summoned to appear before (here name the Commissioners), appointed by the Grand Court to enquire (state briefly the subject of enquiry) at (place) upon the..... day of....., 20.....ato'clock, and to give evidence respecting such enquiry.

(*If the person summoned is to produce any document add*) And you are required to bring with you (specify the books, plans and documents required). Therefore fail not at your peril.

Given under the hand of....., Commissioner, this.....day of....., 19.....

Publication in consolidated and revised form authorised by the Cabinet this 21st day of January, 2025.

Kim Bullings
Clerk of the Cabinet

ENDNOTES

Table of Legislation history:

SL #	Act/Law #	Legislation	Commencement	Gazette
Proc 5/2020		Proclamation 5 of 2020 - Proclaiming the commencement of Constitution (Amendment) Order UKSI 1283/2020	30-Nov-2020	GE97/2020/s3
UK 1283/2020		Cayman Islands Constitution (Amendment) Order 2020	3-Dec-2020	GE99/2020/p1
	56/2020	Citation of Acts of Parliament Act, 2020	3-Dec-2020	LG89/2020/s1
	35/2020	Civil Partnership Law, 2020	4-Sep-2020	LG64/2020/s1
Proc 4/2009		Proclamation 4 of 2009 - Proclaiming the commencement of Constitution Order UKSI 1379/2009	23-Oct-2009	GE69/2009/p7
UK 1379/2009		Cayman Islands Constitution Order 2009	6-Nov-2009	G14/2009/s1
		Partition Law (1997 Revision)	2-Feb-1998	G6/1998/s14
	Cap. 117	Partition Law	1-Jan-1964	Revised Laws of the CI (Vol III – p.1669)





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