

**ADDRESS BY ACTING ATTORNEY GENERAL RESHMA SHARMA KC
AT THE OPENING OF THE GRAND COURT
ON 11 JANUARY 2023**

My Lady Chief Justice, Honourable Judges of the Grand Court, Honourable Chief Magistrate and other Honourable Magistrates, President of the Justices of the Peace Association, Director of Public Prosecutions, President of Cayman Islands Legal Practitioners Association, special guests, distinguished colleagues at the public and private Bars, ladies and gentlemen.

At your invitation, My Lady Chief Justice, I rise to move the motion for the opening of the Grand Court for the year 2023 and as is customary, I crave your indulgence to offer some observations on the past year.

Before doing so My Lady, please permit me to join you in also recognizing His Excellency the Governor, the Honourable Premier, the Honourable Deputy Governor and other Cabinet colleagues. Their presence here today reflects their continued support to the administration of justice.

Permit me also, My Lady, to pass on the apologies of the Honourable Attorney General Samuel Bulgin KC who is currently attending the Financial Action Task Force (FATF) Joint Group meeting overseas. I will speak more to this subject later

on but at this stage, I would like to convey his greetings to you and the Judiciary on this occasion.

My Lady, may I pay special tribute to His Excellency the Governor. I had the privilege of welcoming him to his first Grand Court opening in 2019 when I addressed this Honourable Court, and today note that this will be his last such event before he departs these shores in March. During his tenure, His Excellency firmly supported the administration of justice and was a staunch proponent for the rule of law. He will be greatly missed and on behalf of those gathered here today, I extend to him our very best wishes for his future endeavors, wherever they may take him.

My Lady, on this occasion, it is only fitting that we observe the passing of Her Majesty Queen Elizabeth II in September 2022. Historically, the Sovereign played a pivotal role in the enforcement of law and the establishment of a system of justice from which arose the concept of the Sovereign as the “Fount of Justice”. In modern times, however, that role became symbolic with the Sovereign as the figure in whose name justice is carried out, and law and order maintained. Criminal prosecutions, for example, have been brought in her name against those charged; and senior and distinguished practitioners were, up to 2021, appointed as Queen’s Counsel (although they will now be known as King’s Counsel as a result of King Charles III’s reign). Today, we remember our late Queen, her abiding commitment to her

country, the Realms and the Commonwealth, the values for which she stood firm and the grace and dignity with which she reigned for more than 70 years.

My Lady, 2022 was an eventful year for the Judiciary and legal profession. And as we look back on some of the highlights of the year, what better place to start than by recognizing your Ladyship's historic appointment as Chief Justice – the very first female Chief Justice of these Islands - in October 2022. Your appointment was warmly received throughout the Islands in recognition of your Ladyship's distinguished career which includes your tenure as Chief Justice of the Turks and Caicos Islands and in the Magistrates and Grand Courts of these Islands for several years. Please accept our warmest congratulations on this milestone My Lady. We wish you every success in your new role, and are confident that your goal of establishing a blueprint for court excellence to which you referred at your swearing in ceremony last October, will be realized in short order.

It has been said, My Lady, that every new beginning comes from some other beginning's end. And so, as we welcomed our new Chief Justice, with some sadness we bid farewell to your Ladyship's most esteemed predecessor, Sir Anthony Smellie, KC, KCMG after his tenure of 24 years in that capacity. The importance of Sir Anthony's contribution to the jurisprudence of these Islands in all spheres of law simply cannot be overstated, and we look forward to the upcoming valedictory ceremony next week where some of his many notable and landmark judgments will

be highlighted. To Sir Anthony, we again extend our sincere thanks for his dedicated service over the years, our heartiest congratulations on the knighthood conferred on him in 2022, and our very best wishes on his well-deserved retirement from the Bench.

In yet another historic event my Lady, the Islands welcomed the Judicial Committee of the Privy Council in November 2022 for its inaugural sitting at which 3 appeals from this jurisdiction were heard in Courtroom 9, part of the new court accommodation located in the former Scotiabank building. The Privy Council's visit will long be remembered by practitioners and the wider public alike; indeed, the opportunity to meet with the final appellate judges for these Islands, left some lawyers noticeably star-struck, understandably of course.

The completion of the new court facilities was long anticipated (and some will say, long overdue). Without pre-empting your Ladyship on this subject, I would simply observe that the amenities of the new Hall of Justice, as it is fittingly known, are entirely consistent with the caliber of service delivered by the Cayman Islands Judiciary and for which this jurisdiction is renowned.

My Lady, I crave your indulgence to recognize some recent appointments in 2022 – firstly, that of Justice Ian Kawaley as a member of the Court of Appeal of Bermuda (that appointment takes effect this month). Justice Kawaley now joins Sir

Anthony Smellie KC on the Court of Appeal following the latter's reappointment in 2021 for a further term of 3 years. Our sincere congratulations to Justice Kawaley on his well-deserved appointment.

I also note the appointment of Court Administrator Mrs. Suzanne Bothwell, as an Acting Magistrate. She has no doubt been a welcome addition to her fellow Magistrates and we wish her the very best in this new capacity.

Finally, I am pleased to extend a warm welcome to Mr. Simon Davis, the new Director of Public Prosecutions (DPP), on his first Grand Court opening. Mr. Davis took up his post in March 2022 and we wish him every success in the days ahead.

I turn now to legislative developments my Lady in 2022. These included the commencement of Parts 1 and 2 of the Legal Services Act which provide for the establishment of the Council, and two other provisions. The staggered approach to commencement was intended to allow for administrative arrangements to be put in place as well as regulations, fees structure, immigration requirements, operational procedures and disciplinary rules. Full commencement is anticipated for the first quarter of 2023 and I am pleased to report that the majority of Council members have already been appointed.

In Parliament's final meeting for 2022, the following legislation was enacted: a new Contempt of Court Act which provides greater clarity as to the acts which

constitute contempt and outlines the fair trial rights to which alleged contemnors are entitled in accordance with section 7 of the Bill of Rights of the CI Constitution Order 2009; the Criminal Justice (Offenders Assisting Investigations and Prosecutions) Act which provides for the statutory codification of the use of King's Evidence, and among other things, empowers the DPP to grant immunity from prosecution in certain cases, allows the court to make a sentence reduction on guilty pleas and facilitates the review of sentences; and the Identification Register Act and related Identification Card Act which collectively provide for a national identity scheme. These Acts will not come into force until later in the year. Amendments to the Anti-Corruption Act were approved – these designate the Anti-Corruption Commission as a law enforcement agency in the Cayman Islands, confer additional powers on investigating officers, and clarify the circumstances in which the Commission shall investigate reports. Amendments to the Customs and Border Control Act relating to the procedures for asylum applications were also approved.

My Lady, Parliament also approved the holding of a government-initiated referendum on the introduction of a national lottery which will allow for the regulation and control of an alternative activity and the decriminalization of cannabis. The referendum bill is expected to come before Parliament in the first quarter of 2023.

I now return to the international standards for anti-money laundering (AML) and the combatting the financing of terrorism (CFT), My Lady. At its Plenary in Paris in October 2022, the FATF determined that the jurisdiction had satisfied the recommended action on beneficial ownership. This meant that the jurisdiction had satisfied 62 out of 63 Recommended Actions related to improving its AML/CFT regime with just one outstanding Recommended Action left for completion. This takes the Cayman Islands one step closer to removal from the FATF's list of jurisdictions with AML/CFT deficiencies and by extension, removal from the EU's AML/CFT list. Please allow me, my Lady, to commend both the public and private sector for their tireless work to meeting the standards and actions to which the jurisdiction has been subject. It is eminently clear from these developments that those efforts have not been in vain.

For most of 2022, My Lady, global headlines were, and continue to be dominated by the invasion of Ukraine by Russia. In response, over the course of the year, the EU, US, UK and Canada imposed further amendments to what have been described as unprecedented and some of the most severe sanctions against Russia. In April 2022 Government announced the establishment of a multi-agency task force comprising various Government departments and statutory authorities to effectively implement our domestic sanctions regime under the Russia (Sanctions) (Overseas Territories) Order 2020, in collaboration with the UK Office of Financial Sanctions

Implementation (OFSI). As at mid-July 2022, assets valued at approximately USD 8.4 billion and EUR 297.8 million had been frozen.

Over 2022, there was a steady stream of licence applications to the Governor to allow applicants to undertake acts which would otherwise be prohibited under the local sanctions regime. Some of these applications have raised complex and at times, novel issues under the sanctions regime and it is expected that the volume of work in this area will steadily increase in 2023.

And following the UK's lead, My Lady, the Governor issued two general licences, the first of which allows a Relevant Investment Fund or Fund Manager to redeem, withdraw or deal with a non-designated person's interest and make payment for routine fees and expenses from frozen accounts. The second such licence, My Lady, permits the supply or delivery by ship of Russian oil and oil products, as well as associated services only where they have been purchased or sold at or below a corresponding set price. This is known as "the oil price cap" general licence. Work is underway for a third general licence which, it is anticipated, will be issued shortly. These general licences, My Lady, similarly permit a person or entity to undertake activities which would otherwise be prohibited under the OTs Order but without having to wait for a specific licence to be approved. Given the ever increasing number of new designations under the Russia sanctions, and more recently, the Belarus regime, and the likely corresponding increase in licence applications which

I mentioned, general licences offer a more expeditious means of allowing certain actions to be taken, subject to certain conditions.

My Lady, from November 27 to December 1 2022, the Cayman Islands hosted the first in-person meeting of the CFATF since 2019 with almost 300 overseas and 130 local delegates; coincidentally, my Lady, this was also the organization's 55th Plenary meeting and the 30th anniversary of the CFATF as the first FATF-style regional body to be established; additionally, it was the third time that the Cayman Islands assumed chairmanship of the CFATF. With such momentous milestones, the jurisdiction was understandably keen to deliver an unparalleled Plenary experience and that it did with aplomb through the collective efforts of various government agencies and public sector entities; to these bodies and their respective officers, I extend my deepest appreciation.

I crave your indulgence my Lady to publicly recognize the Commissioner of Police and the officers of the RCIPS for their continued commitment to maintaining law and order within the Islands and in so doing, improving the quality of life of the wider community. I would also highlight the recent appointment of 5 new Superintendents, all of whom were promoted following a recruitment exercise held by the Police Service Commission which was established in 2021. My congratulations to the appointees on their achievements. I also acknowledge the

dedicated officers of our Customs and Border Control for their continued efforts to safeguard our borders.

Finally my Lady, permit me to recognize and pay tribute to the staff of the Portfolio of Legal Affairs for their hard work and dedicated service over the past year. Their support and professionalism is, as always, greatly appreciated.

In closing, My Lady, I wish a safe, prosperous and productive New Year to you, your fellow Judges and Magistrates, the Court staff, members of the legal profession and those in attendance this morning.

I now formally move for the Opening of the Grand Court for the year 2023.

May it so please you My Lady.

RESHMA SHARMA K.C.
ACTING ATTORNEY GENERAL