

LOCAL COURTS ACT, 1963
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Assented to in Her Majesty's name this 21st day of
June, 1963.

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H. J. L. BOSTON,
Governor-General.

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No. 20



1963

Sierra Leone

**An Act to Consolidate and Amend the Law relating
to the Local Courts, to Provide for the Extension
of their Jurisdiction and for the Hearing of
Appeals from such Courts and to make
Certain Incidental and Consequential
Provisions for the Administration
of Justice in the Provinces**

[12th March, 1964.] Date of
commence-
ment.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and
with the advice and consent of the House of Representatives in
this present Parliament assembled, and by the authority of the
same, as follows:—

PART I—PRELIMINARY

1. This Act may be cited as the Local Courts Act, 1963, and shall apply throughout the Provinces.

Short title
and applica-
tion.

Interpreta-
tion.

2. In this Act unless the context otherwise requires—

“customary law” means any rule, other than a rule of general law, having the force of law in any chiefdom of the Provinces whereby rights and correlative duties have been acquired or imposed which is applicable in any particular case and conforms with natural justice and equity and not incompatible, either directly or indirectly, with any enactment applying to the Provinces, and includes any amendments of customary law made in accordance with the provisions of any enactment;

“District Officer” includes an Assistant District Officer;

“general law” includes the common law, equity and all enactments in force in Sierra Leone except in so far as they are concerned with customary law;

“Judicial Adviser” means any person appointed as such by the Public Service Commission and includes an Assistant Judicial Adviser so appointed;

“Minister” means the Minister responsible for legal and judicial matters.

Change of
nomenclature.

3. The existing Native Courts and Group Native Appeal Courts are hereby re-designated Local Courts and Group Local Appeal Courts and the term “Local” is hereby substituted for the term “Native” in every designation of any such courts in any existing enactment.

PART II—ADMINISTRATION AND APPOINTMENTS

Minister may
appoint Pre-
sident.

4. (1) The Minister may from time to time appoint a President and a Vice-President and such other members of a Local Court or Group Local Appeal Court as he shall think fit.

(2) Before entering on his functions every President, Vice-President or other member of any such court shall take and subscribe before such person as the Minister may direct an oath in the form set out in the Schedule.

(3) Subject to the provisions of section 5 the Presidents, Vice-Presidents and Court Members shall be appointed for a period of three years and shall be eligible for re-appointment.

Minister may
suspend or
dismiss a
court mem-
ber.

5. The Minister or any person or body authorized by him in that behalf may dismiss or suspend any member of a Local Court or Group Local Appeal Court who shall appear to have abused his power or to be unworthy or incapable of exercising the same justly, or for other sufficient reason. On such dismissal or for the period of his suspension the member shall be disqualified from exercising any powers of jurisdiction unless and until he is expressly re-instated by the Minister or a person or body authorized by him in that behalf.

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6. A Clerk, bailiff and such other officers as in the opinion of the Minister the business of the Local Court may require shall be appointed to every Local Court by the Tribal Authority of the Chiefdom in which the Court is situated, and in the case of Group Appeal Court by the Minister.

Appoint-
ment of
officers of
Local
Courts.

7. The appointment, promotion, transfer, termination of appointment, dismissal, disciplinary control and terms of service of the clerk and other officers of a Local Court or Group Local Appeal Court shall be subject to the approval of the Minister, and no person may be appointed to any office under any such Court unless he shall have complied with such Rules concerning proficiency as may from time to time be made by the Minister.

Terms and
conditions
of service of
officers to be
approved by
Minister.

8. (1) The clerk shall perform such duties as may be assigned to him by Rules made under this Act or, subject thereto, by any direction of the Local Court or Group Appeal Court and, in particular he shall—

Duties of
clerk.

- (a) prepare and issue all warrants, writs and processes;
- (b) record all proceedings of the Court;
- (c) register all orders and judgments of the Court;
- (d) keep an account of all moneys received or paid by the Court.

(2) Subject to the approval of the President of the Court the clerk may delegate any of his duties under this section to any other officer or servant of the court who shall perform the same in accordance with such directions as he shall receive from the clerk.

9. (1) The bailiff shall perform such duties as may be assigned to him by Rules made under this Act, or subject thereto, by any direction of the Local Court or Group Appeal Court and in particular he shall—

Duties of
bailiff.

- (a) effect the service or execution of all writs and other processes which he may receive from the Court;
- (b) make all necessary returns in relation to such writs and processes;
- (c) at all times when he is not engaged on duties which necessitate his absence from the court attend thereat and obey all lawful directions of the court.

(2) The Local Court may appoint one or more members of the Chiefdom Police to assist the Bailiff in the exercise of his functions and any member of the Chiefdom Police who shall be in possession of any process shall be presumed to be authorized to execute such process unless the contrary is proved.

(3) The provisions of subsection (2) shall apply with the like effect to the appointment of a member or members of the Tribal Authority but only in matters relating to the criminal jurisdiction of the Court.

Indemnity of
judges and
officers of
the Local
Courts.

10. (1) Except as provided in subsection (4) of section 13 of the Constitution—

- (a) no member of a Local Court or Group Local Appeal Court shall be liable to be sued in any civil Court for any act done by him within the territorial limits of his jurisdiction in the exercise of his judicial duty, or for any order made by him in the discharge of such duty, nor shall any order for costs be made against him:

Provided that he at the time reasonably and in good faith believed himself to have the jurisdiction to do or order the act complained of; and

- (b) no officer of any Local Court or Group Local Appeal Court or other person bound to execute lawful warrants or orders of any such Court shall be liable to be sued in a civil court for the execution of any warrant or order which he would be bound to execute if within the jurisdiction of the Court issuing the same.

(2) Where as a result of any proceedings any member or officer of any such Court or any such other person as is mentioned in paragraph (b) of subsection (1) is required to pay such compensation as is referred to in subsection (4) of section 13 of the Constitution and the said member, officer or other person can show that he reasonably and in good faith believed that he had jurisdiction, or, as the case may be, that the Local Court or Group Local Appeal Court had jurisdiction to issue the warrant or order under which he acted, he shall be entitled to receive from the Accountant-General the amount of compensation he has paid by virtue of any judgment against him in any such proceedings and any such sums paid by the Accountant-General shall be charged on the Consolidated Revenue Fund.

Sessions.

11. A Local Court or Group Local Appeal Court shall hold sessions at such times and places as the Tribal Authorities of the Chiefdom or Chiefdoms consider necessary for the convenient and speedy despatch of the business of the Court:

Provided that the Minister or any person or body authorized by him in that behalf may direct sessions to be held at such times and places as he or it shall think fit.

Power to
establish
additional
courts or to
suppress
courts which
are not
required.

12. The Minister may by Order establish any additional Local Courts or Group Local Appeal Courts that may be required or direct that any Local Court or Group Local Appeal Court which is no longer required shall cease to exercise jurisdiction and such Court or Courts shall thereupon cease to exercise jurisdiction.

PART III—JURISDICTION

13. (1) The Local Courts shall have jurisdiction—

Jurisdiction.

- (a) to administer the estates of deceased persons, so far as they are situated within the jurisdiction of the Courts and the administration of which is governed by customary law;
- (b) to hear and determine—
- (i) all civil cases governed by customary law other than cases between Paramount Chiefs or Tribal Authorities involving a question of title to land;
- (ii) all civil cases governed by the general law where the claim, debt, duty or matter in dispute does not exceed two hundred pounds in value, whether on balance of account or otherwise, or in claims for recovery of possession where the annual rental value of the property does not exceed twenty-five pounds and the term of the lease does not exceed five years:

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Provided that the jurisdiction under this sub-paragraph shall not extend to any of the following cases—

- (aa) cases relating to the civil status of any person;
- (bb) cases relating to the administration or devolution of the estates of deceased persons;
- (cc) any case in which the Government, a company or a public officer acting in his official capacity is a party;
- (dd) any action founded upon libel, slander, false imprisonment, malicious prosecution, seduction, or breach of promise of marriage;
- (c) to hear and determine all criminal cases where the maximum punishment which may be imposed does not exceed a fine of fifty pounds or imprisonment for a period of six months or both such fine and such imprisonment.

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(2) The jurisdiction conferred by this section shall apply to all persons within the limits of the Court's jurisdiction and where there is no provision of customary law the general law shall apply.

14. (1) Subject to the provisions of section 13 a Local Court shall have jurisdiction to do all lawful acts necessary to hear and determine all civil and criminal matters arising within the local limits of its authority or transferred to it by the Judicial Adviser under the provisions of subsection (2).

Place of trial and transfer.

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(2) The Judicial Adviser or a District Appeal Court may of their own motion or on the application of a Local Court or any party to the proceedings for reasonable cause transfer any proceedings initiated before a Local Court to another Local Court, a Magistrate's Court or the District Appeal Court as shall in all the circumstances appear most expedient and any proceedings so transferred shall be commenced *de novo*.

(3) Notice of any application made by a party under subsection (2) shall be given at the office of the Local Court before which the proceedings have been commenced.

Representation.

15. No legal practitioner or other person may appear for any party before a Local Court or Group Local Appeal Court:

Provided that the Court may in cases of hardship where a party cannot be present in person permit the absent party to be represented by a spouse, guardian or relative duly authorized by him in that behalf.

Additional criminal jurisdiction may be conferred by Order of Governor-General.

16. In addition to the jurisdiction conferred by section 13 the Governor-General may by Order confer on all or any Local Courts jurisdiction to enforce all or any of the provisions of any Act creating criminal offences:

Provided that the penalties actually imposed shall not exceed a fine of fifty pounds or imprisonment for a period of six months or both such fine and such imprisonment.

PART IV—PROCEDURE AND POWERS OF LOCAL COURTS

Practice and procedure.

17. Subject to the provisions of this Act and any Rules made under section 49 the procedure and practice of Local Courts shall be governed by customary law.

Proceedings to be held in open Court.

18. The room or place in which a Local Court sits shall be an open or public court to which members of the public may have access so long as they shall be of good behaviour and so far as it may conveniently contain them:

Provided that a Local Court may exclude members of the public in cases where young persons are involved or where the administration of justice would be rendered impracticable by presence of the public.

Courts power to make Orders and impose punishment.

19. (1) A Local Court, acting within the limits of its jurisdiction, may make the like orders and impose the like punishments as may be made or imposed in a Magistrate's Court and (without prejudice to the generality of the fore-going) may in particular—

(a) in criminal cases—

Compensation.

(i) in addition to the imposition of a fine or the infliction of a term of imprisonment order any person convicted before it of any offence, if it is

of the opinion that the person or property of the prosecutor has received damage by the committing of such offence and the prosecutor so requests, to pay to the prosecutor such sum as shall appear to the Court to be reasonable amends not exceeding five pounds: £5000

Provided that the award of such amends shall be a bar to all further proceedings in respect of the damage so received;

- (ii) direct any fine (or such part thereof as it shall deem fit) to be paid to any person injured or aggrieved by the act or omission in respect of which the fine has been imposed on condition that such person, if he shall accept the same, shall not be entitled to recover damages for any loss or injury sustained by him by reason of such act or omission;
- (iii) order any person convicted before it to pay all or any specified part of the expenses of his prosecution; Costs payable by party convicted.
- (iv) where it appears to the Court that a charge is malicious, frivolous or vexatious, order the prosecutor to pay all, or any specified part, of the expenses of the prosecution or the defence; Costs to be paid by prosecutor in certain cases.
- (v) when exercising the powers conferred upon it by sub-paragraphs (iii) and (iv) order the whole or such proportion as the Court thinks fit of the expenses so paid, to be paid over to the prosecutor or the accused as the case may be:

Provided that any amends, or expenses awarded under sub-paragraphs (i), (iii) or (iv) shall not be regarded as a penalty, but shall be recoverable as a judgment debt in the Court by which the order for payment is made but nothing in this proviso shall in any way affect or limit the powers conferred upon the Court by section 20;

(b) in civil cases—

- (i) order the payment of money due, damages, compensation, and reasonable costs and expenses incurred by the successful party and his witnesses;
- (ii) order the recovery of possession of land and the restitution of property;

(iii) grant interlocutory and final injunctions and order specific performance in appropriate cases according to custom and precedent;

(iv) where necessary make any other order which the justice of the case may require.

(2) A Local Court shall have no jurisdiction to impose any punishment not expressly authorized under this Act or any other enactment.

Restitution
of property.

20. (1) Where upon the arrest of a person charged with an offence any property is taken from him, the Court before which he is charged may, if it thinks fit, order that the property or a part thereof be restored to him or to such other person as he may direct.

(2) Where any person is convicted of having stolen or otherwise dishonestly or wrongfully obtained any property the Court convicting him may order that the property or a part thereof be restored to the person who appears to it to be the owner thereof, either on payment or without payment by the owner to the person in whose possession such property or a part thereof then is, of any sum named in such order.

(3) Subsection (2) shall not apply to—

(a) any valuable security which has been *bona fide* paid or discharged by any person liable to pay or discharge the same; or

(b) any negotiable instrument which shall have been *bona fide* received by transfer or delivery by any person for a just and valuable consideration without notice, or without any reasonable cause to suspect, that it has been stolen or otherwise dishonestly obtained; or

(c) any offence against sections 20, 21 and 22 of the Larceny Act, 1916.

(4) On the restitution of any stolen property if it appears to the Court by the evidence that the person convicted has sold the stolen property to any person, and that such person had no knowledge that the same was stolen and that any moneys have been taken from the person convicted on his apprehension under subsection (1), the Court may, on the application of such purchaser, order that out of such moneys a sum not exceeding the proceeds of such sale be delivered to such purchaser.

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Witnesses.

21. (1) Every Local Court shall have the power—

(a) to require any person actually before the Court to give evidence in any case and to answer any question put to him by the Court; and

(b) to summon before the Court for the purpose of giving or producing evidence any person in Sierra Leone;

Provided that—

(a) any person so summoned to give evidence shall be entitled to receive his reasonable travelling and lodging expenses in advance and reasonable compensation for his loss of time;

(b) no person other than an accused person shall be bound to answer any question or produce any document the answer to which or the contents of which might tend to incriminate him and no accused person shall be required to answer or produce any question or document the answer to which or the contents of which might tend to incriminate him in respect of an offence other than that for which he is being tried.

(2) Any person summoned as a witness who refuses or neglects, without sufficient cause, to appear or to produce any document required by the summons to be produced may be compelled by warrant to attend and shall be liable to a fine not exceeding twenty pounds.

(3) Any witness who refuses to take any oath or to make an affirmation or to give evidence or answer any lawful question shall be guilty of contempt of court and liable to a fine not exceeding twenty pounds or imprisonment not exceeding three months.

22. If it shall appear at any stage of a civil proceeding Joinder of before a Local Court that any person other than the parties there- parties. to ought by reason of his having an interest in, or of his being likely to be affected by the result of, the proceedings, to be made a party to the same, the court may either of its own motion or on the application of the said person or of either party order that he shall be made a party to the proceedings and on such order being made notification thereof shall be served on the said person and the Court may make such consequential orders as to costs or otherwise as may be just.

23. (1) If the President of any Local Court is satisfied by Search information sworn before him that in fact, or according to reason- Warrants. able suspicion, any animal, matter or thing on, by, or in respect of which, a criminal offence has been, or is being or is about to be committed is in any particular premises, vessel, vehicle or place, he may by warrant (called a search warrant) authorize any member of the Chiefdom Police or other person named therein to enter such premises, vessel, vehicle or place (which shall be named in the warrant) if necessary by force and to search the same and every person found therein, and if any animal, matter or thing searched for be found to seize the same and to arrest the occupier of the premises, vessel, vehicle or place if the President of the Court thinks fit so to direct.

(2) The search warrant shall be executed by the member of the Chiefdom Police or other person who shall have charge thereof; but he may be accompanied by any other persons necessary to assist him.

Forcible entry in certain cases.

(3) If the premises, vessel, vehicle or place are or is closed and the said constable or other person is not admitted after making known his authority and demanding admission, he may, if the warrant empowers him to do so, forcibly enter such premises, vessel, vehicle or place and every part thereof.

Time of execution.

(4) The search warrant shall not be executed between the hours of eight o'clock at night and five o'clock in the morning unless the Court President issuing the same shall, by an order endorsed thereon, give authority for its execution at any time.

Inspection.

24. The Court may of its own motion or on the application of any party to a proceedings make such order for the inspection by the Court, the parties or witnesses of any land or property the inspection of which may be material to the proper determination of any question at issue and may give such directions in respect of such inspection as the Court may think fit.

Place of imprisonment.

25. Every person sentenced to imprisonment by a Local Court or arrested in execution of the process of such court shall be imprisoned in such prison or lock-up as the Minister may from time to time prescribe or in any particular case by order specifically direct.

Recovery of fines and imprisonment in default.

26. (1) A Local Court may order that any fine which it may impose shall be paid at such times and by such instalments as it may think just and in default of the payment of any fine (or instalment thereof) the Court may order the convicted person to be committed to prison for a period not exceeding the period specified in the following scale—

<i>Fine</i>	<i>Period of imprisonment</i>
Not Exceeding ten shillings	Seven Days
Exceeding ten shillings, not exceeding one pound,	Fourteen days.
Exceeding one pound, not exceeding two pounds	One Month.
Exceeding two pounds, not exceeding five pounds	Two months
Exceeding five pounds, not exceeding ten pounds	Three months.
Exceeding ten pounds	Six months.

(2) In any case where a person has been committed to prison by a Local Court for non-payment of a fine and such person thereafter pays the whole or part of the fine his imprisonment shall be reduced by the number of days bearing as nearly as possible the same proportion to the total number of days for which such person was committed as the sum paid bears to the amount of the fine.

27. Any judgment or order given or made by a Local Court in a civil case may be executed in such manner as may be prescribed by Rules made under section 49. Execution of civil judgment.

28. (1) A Local Court may, whenever it shall think necessary to do so for the preservation, proper custody or management of any property which is the subject of any proceedings before it, appoint any person of established financial integrity to receive and take charge of any such property and deal with it in such manner as the Court shall direct. Power to appoint receiver and manager.

(2) In determining whether it is just and convenient that such an appointment shall be made the Court shall have regard to all relevant circumstances and in particular the value of the property in question and the probable costs of the appointment.

(3) Unless otherwise ordered the person to be appointed shall first give such security as shall be fixed by the Court and shall be allowed a proper salary or allowance.

(4) Any person appointed under this section shall render to the Local Court regular accounts at such intervals not being greater than one year as the Court shall prescribe of all property received or disposed of by him in execution of the directions given by the Court under subsection (1).

PART V—APPEALS

29. (1) As from the commencement of this Act, there shall be constituted a District Appeal Court which shall consist of the ~~Police-Magistrate~~ for each District sitting with two Assessors selected by him from a list of experts in customary law drawn up by the ~~District Officer~~. Right of Appeal to District Appeal Court.

Provided that in any case where it appears that no question of customary law will arise the Magistrate may sit without Assessors.

(2) The Assessors shall advise the Magistrate on questions of customary law but the decision shall be vested exclusively in the Magistrate who shall record the reasons for his decisions.

(3) Any person aggrieved by any order or decision of a Local Court may, instead of appealing to a Group Local Appeal Court, appeal to the District Appeal Court.

(4) The convicted person (or in the case of civil proceedings both parties) shall be informed of their right to appeal to the District Appeal Court at the termination of the proceedings before the Local Court.

(5) No judgment or order of a Local Court shall be executed until a period of fifteen days commencing on the day of the termination of the proceedings in the said Court has expired.

(6) If the convicted person (or in a civil case either of the parties) states that he desires to appeal to the District Appeal Court the Local Court shall endorse the record with the words

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"This judgment (or order) is under appeal and shall not be executed unless and until it is confirmed by a judgment of the District Appeal Court" and cause it to be transmitted without delay to the Clerk of the District Appeal Court.

(7) If the person aggrieved did not inform the Local Court at the termination of the proceedings of his desire to appeal to the District Appeal Court he may nevertheless appeal at any time before the expiry of the period of fifteen days prescribed in subsection (5) by declaring his intention to appeal—

- (a) before the Clerk of the Local Court, or
- (b) before the Clerk of the District Appeal Court (who shall forthwith inform the Clerk of the Local Court of any such declaration),

and in either case the Clerk of the Local Court shall endorse on the record the words set out in subsection (6) and cause it to be transmitted without delay to the Clerk of the District Appeal Court.

(8) On receiving the record so endorsed the District Appeal Court shall list the appeal for hearing and cause notice of the date and time of the hearing to be given to the Local Court and all interested parties.

(9) On any such appeal the District Appeal Court may rehear the whole or such part of the evidence as justice may require.

(10) In any appeal before the District Appeal Court any party may be represented by a legal practitioner.

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Right to
Appeal to
Group
Local
Appeal
Court.

30. (1) Any person aggrieved by any order or decision of a Local Court may, instead of appealing to the District Appeal Court, appeal to the Group Local Appeal Court within fifteen days from the decision of the Local Court and the provisions of subsections (6), (7), (8) and (9) of section 29 shall (subject to the necessary modifications) apply to an appeal to the Group Local Appeal Court in the same manner as they apply to appeals to the District Appeal Court.

(2) Any person having appealed to a Group Local Appeal Court under subsection (1) and being aggrieved with the decision of that Court may within fifteen days appeal to the District Appeal Court and the relevant provisions of section 29 shall (subject to the necessary modifications) apply to any such appeal.

Appeal to
Local
Division of
Supreme
Court.

31. (1) There shall be constituted a Local Appeals Division of the Supreme Court (which shall consist of a judge of the Supreme Court sitting with two Assessors selected by him from a list of experts in customary law drawn up by the Judicial Adviser) to which an appeal shall lie from decisions of the District Appeal Court in the following cases—

- (a) all cases governed by the general law where, if the case had been heard by a Magistrate at first instance, an appeal would lie to the Supreme Court;

(b) in cases governed by customary law—

(i) in criminal cases—

(aa) as of right on any ground of appeal which involves a question of law alone;

(bb) with the leave of the District Appeal Court or the Group Local Appeal Court on any ground of appeal which involves a question of fact (or mixed law and fact);

(ii) in all civil cases.

(2) Every appeal under subsection (1) shall be brought by a petition setting forth the grounds of appeal filed in the Registry of the Supreme Court within thirty days of the decision appealed from and in all other respects the procedure with respect to the appeal shall be governed by the same rules as if the decision appealed from had been that of a Magistrate's Court.

(3) The Assessors shall advise the Judge on questions of customary law but the decision shall be vested exclusively in the Judge, who shall record the reasons for his decision.

32. For the purposes of the application of the rules relating to an appeal to the Court of Appeal all cases in which an appeal lies to the Local Appeals Division of the Supreme Court shall be deemed to have originated in a Magistrate's Court and shall be governed by the provisions of Part III of the Courts Appeals Act, 1960.

Further Appeals.

No. 18 of 1960.

Powers, etc of Appeal Courts.

33. (1) On an appeal any Appeal Court may—

(a) confirm the judgment, order or sentence of the Court below;

(b) substitute for the judgment, order or sentence of the Court below any judgment, order or sentence which might lawfully have been made at first instance;

(c) remit the case to the original Court or any other Court of similar jurisdiction for rehearing;

(d) make any such order as to costs of the proceedings both in the Appeal Court and in the Courts below as may be just;

(e) exercise any power which might lawfully have been exercised by the Courts below;

(f) make any such supplementary or consequential orders as the justice of the case may require.

(2) Notwithstanding that the Appeal Court is of the opinion that a point raised on appeal might be decided in favour of the appellant no process or proceedings of a Local Court shall be set aside or declared void by reason of any defect in procedure or want of form or any other reason of a purely technical nature:

Provided that the Appeal Court is satisfied that no substantial miscarriage of justice has occurred.

(3) Where any time is fixed by this Act or any Rule made hereunder for the bringing of any appeal or the doing of any act or thing an Appeal Court may, if the justice of the case shall so require, extend any such period of time on such terms as it shall think fit.

PART VI—CONTROL BY JUDICIAL ADVISER

Judicial
Advisers.

34. (1) In addition to the Judicial Adviser the Governor-General may from time to time constitute such posts of Assistant Judicial Adviser as shall seem to him to be necessary.

(2) The functions of the Judicial Adviser shall include the advising of the Local Courts in matters of law and organisation, the training of personnel and the exercise of the powers of review prescribed in the following sections and such other functions as may from time to time be conferred upon him by order of the Minister and all or any of the functions of the Judicial Adviser may, subject to his directions, be performed by an Assistant Judicial Adviser.

Returns of
cases.

35. (1) Within seven days after the end of every month the Clerk of each Local Court shall forward to the Judicial Adviser and the District Officer a complete list (in such form as the Minister may from time to time prescribe) of all cases decided or commenced in the Local Court during the month.

(2) At the end of every session of a Group Local Appeal Court the Registrar shall forward to the Judicial Adviser and the District Officer a complete list of all appeals decided or commenced before the Court during that session.

Power of
review.

36. The Judicial Adviser or a District Officer shall at all times have access to all Local Courts, Group Local Appeal Courts and all books, records and other documents in their custody and may of their own motion, where a *prima facie* case of miscarriage of justice is disclosed or an obvious error is to be corrected, review any decision of such Court whether civil or criminal.

Power of
review not
exercisable
where
appeal
pending.

37. No reviewing officer shall exercise his powers of review in any case where an appeal is pending.

Exercise of
power of
review.

38. (1) Notice shall be given to the Local Court or Group Local Appeal Court and the parties concerned of the intention to review any proceeding and any such party shall be heard, if he so desires, at the time and place specified in such notice.

(2) Any notice given under subsection (1) shall operate as a stay of all proceedings in execution of the decision or order of the Local Court or Group Local Appeal Court as the case may be.

Orders of
Reviewing
Officer.

39. (1) In exercise of the power of review the Judicial Adviser or a District Officer may—

- (a) make or give such order or judgment or pass such sentence therein as the Court itself might have made, given or passed and make such consequential orders as the justice of the case may require:

Provided that no sentence may be increased without an opportunity being given to the convicted person of being heard;

- (b) set aside the conviction, sentence, judgment or other order of the Court and when he considers it desirable order any case to be retried by the same or any other Court of like jurisdiction or before a Magistrate's Court;
- (c) order any costs awarded by the Court to be disallowed or reduced and make any consequential order for the refund of any amount already paid;
- (d) order that any execution process issued in pursuance of any order or judgment be disallowed and make such consequential orders as the justice of the case requires.

(2) Any order made by the Judicial Adviser or a District Officer in the exercise of his power of review shall be entered on the record and shall for the purposes of execution or appeal therefrom be deemed to be an order of the original Court:

Provided always that no appeal from any such Order shall lie to a Group Local Appeal Court.

PART VII—OFFENCES

40. (1) Any person who shall—

- (a) within the area of the jurisdiction of any duly constituted Local Court exercise or attempt to exercise judicial powers, otherwise than in accordance with the provisions of any Act; or
- (b) sit as a member of such Court without due authority,

Adjudication
without
authority.

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding twenty-five pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

(2) No prosecution under this section shall be instituted without the consent in writing of the Judicial Adviser.

41. (1) No fees or fines in excess of those authorized by this Act or any other written enactment shall be demanded or exacted from any person in respect of any proceedings in a Local Court or Group Local Appeal Court and any default in complying with an order for the refund of fines, fees or costs made by a superior Court or a reviewing officer shall be deemed to be an exaction of fees or fines in excess of those authorized.

Exacting
excessive
fees.

(2) Any member, officer or servant of a Local Court or Group Local Appeal Court who contravenes the provisions of subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding twenty-five pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

Corruption.

42. (1) Any member, officer or servant of any Local Court or Group Local Appeal Court who accepts, claims or obtains or attempts to accept, claim or obtain for himself or for any other person any gratification, advantage, bribe or reward whatsoever, whether in money or otherwise for—

(a) doing or forbearing to do any act which he is authorized or required to do in the exercise of his authority, jurisdiction, or functions as a member, officer or servant of any such Court;

(b) corruptly showing favour or disfavour to any person,

shall be guilty of an offence.

(2) Whosoever—

(a) gives or offers;

(b) accepts or obtains;

(c) agrees to give, offer, accept or obtain,

for himself or for any other person, any gratification, advantage, bribe or reward whatsoever, whether in money or otherwise, for inducing by any corrupt or illegal means or by corrupt personal influence any member, officer, or servant of a Local Court or Group Local Appeal Court—

(i) to do or to forbear to do any act which the said member, officer or servant is authorized to do in exercise of his jurisdiction, authority or functions; or

(ii) to show favour or disfavour to any person,

shall be guilty of an offence.

(3) Any person convicted of an offence under this section shall be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding twelve months or to both such fine and such imprisonment.

(4) Notwithstanding the limitations on the criminal jurisdiction of the Local Courts specified in sections 14 and 16 a Local Court shall have jurisdiction to try any offence under this section and impose the full penalty.

**Obstructing
Bailiffs etc.**

43. Any person who—

(a) assaults, obstructs, molests or resists; or

(b) aids or incites any other person to assault, obstruct, molest or resist,

any bailiff or other person acting or proceeding in the execution of his duties under section 9 shall be guilty of an offence and shall on conviction be liable to a fine not exceeding twenty-five pounds or to imprisonment for a period not exceeding three months.

44. Any person who without lawful excuse—

Contempt of Court.

- (a) intentionally insults a Local Court or Group Local Appeal Court in session or any member thereof;
- (b) intentionally interrupts the proceedings of any such Court;
- (c) refuses or neglects to comply with any lawful order of any such Court;
- (d) wrongfully refuses to vacate any land or give up possession of property to any person who has obtained judgment from any such Court for the recovery of possession of such land or property;
- (e) having the means to pay any sum by way of compensation or costs or otherwise in civil or criminal proceedings awarded against him by any such Court refuses or neglects after due notice to make such payment, in accordance with any order for payment, whether by instalments or otherwise;
- (f) refuses to obey a summons to appear before any such Court;

shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding five pounds or to imprisonment for a term not exceeding one month.

45. Any person who in any proceedings before a Local or Group Local Appeal Court gives evidence whether on oath or otherwise which he knows to be false or does not believe to be true shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds or imprisonment for a period not exceeding three months or to both such fine and such imprisonment: False evidence.

Provided always that no person shall be convicted of this offence solely upon the evidence of one witness as to the falsity of any statement alleged to be false.

46. Any registrar, clerk or member of a Local Court or Group Local Appeal Court who shall knowingly render, or cause any subordinate officer to render, a false return of cases tried or penalties inflicted by any such Court shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five pounds or to a term of imprisonment not exceeding three months. Rendering false returns.

47. Any person charged in accordance with this Act or any Rules made hereunder with the duty of recording the proceedings of a Court, who knowingly makes a false record of such proceedings shall be guilty of an offence and be liable on conviction to a fine not exceeding twenty-five pounds or to imprisonment for a term not exceeding three months. Falsification of record.

PART VII—MISCELLANEOUS

Reference
to Local
Courts in
certain cases.

48. Whenever it shall appear to the Supreme Court or a Magistrate's Court that any proceedings before it are properly cognisable by a Local Court, it may stay any proceedings before it and refer the parties to a competent Local Court and make such consequential orders as to costs or otherwise as the justice of the case may require.

49. (1) The Minister may by Public Notice make Rules prescribing any of the following matters—

- (a) anything requiring to be prescribed under any section of this Act;
- (b) the fees to be charged in the Local Courts and Group Local Appeal Courts;
- (c) the disposal and application of fines and fees inflicted or received by the said Courts;
- (d) the practice and procedure of the said Courts;
- (e) the procedure relating to the swearing of witnesses;
- (f) the rules of evidence in the said Courts;
- (g) the practice relating to the remand of accused persons;
- (h) rules relating to bail;
- (i) rules relating to the execution of sentences and civil judgments;
- (j) the costs to be allowed in civil and criminal cases;
- (k) the forms to be used in the said Courts;
- (l) rules relating to arrest of accused persons and the issue and execution of search warrants;
- (m) rules relating to the rendering of returns to revising officers;
- (n) the records to be kept by the said Courts;
- (o) the appointment, dismissal and terms of service of the officers of the said Courts;
- (p) the powers and duties of Court Clerks and other officers of the said Courts;
- (q) the procedure relating to the institution of prosecutions and hearing of appeals and reviews;
- (r) the classes of proceedings existing under customary law which are to be deemed to be civil or criminal proceedings respectively;
- (s) any other matters which may require to be prescribed in order to ensure the effective operation of any of the provisions of this Act.

(2) Any Rules made under this section shall apply to all Local Courts and Group Local Appeal Courts or any particular Court or Courts as may be specified therein.

50. (1) The Native Courts Act is hereby repealed:
Provided that—

Repeals and savings.
Cap. 8.

- (a) all Local Courts and Group Local Appeal Courts in existence immediately before the commencement of this Act shall be in no wise affected by the repeal save as is expressly provided in this Act;
- (b) no proceedings before any such Court which were finally terminated before the commencement of this Act shall be re-opened but any judgment, order or sentence made or passed in any such proceeding may be enforced in the same way as if this Act had not come into operation;
- (c) all proceedings in any such court commenced under the Native Courts Act which have not been finally completed at the commencement of this Act shall be prosecuted and continued in conformity with this Act as far as consistently may be; Cap. 8.
- (d) all Rules and Orders made under the Native Courts Act shall (save in so far as they are inconsistent with the provisions of this Act) be deemed to have been made by the Minister under this Act and shall remain in force until they have been replaced by Rules and Orders made under this Act relating to the same subject-matter or until they have been expressly revoked. Cap. 8.

(2) Subsection (3) of section 29 of the Courts Act is hereby repealed. Cap. 7.

SCHEDULE

FORM OF OATH OF COURT MEMBER (Section 4)

I.....being appointed the
 *President/Vice President/a member of the.....
 court do swear/affirm that I will well and truly serve as the
 *President/Vice President/a member of the.....
 court and will do right to all manner of people according to the
 laws and customs recognised by such court without fear or favour
 affection or ill will and that I will not accept in respect of my
 service as *President/Vice President/member any bribe, or any
 unlawful recompences, reward or benefit whatsoever.

So help me God.

(* Delete whichever is not applicable).

Passed in the House of Representatives this 25th day of April in the year of Our Lord one thousand nine hundred and sixty-three.

S. V. WRIGHT,
Clerk of the House of Representatives.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed the House of Representatives and found by me to be a true and correctly printed copy of the said Bill.

S. V. WRIGHT,
Clerk of the House of Representatives.

M.P. N1/7/1.