

COURTS ACT 1993 (ACT 459)

As amended by

COURTS (AMENDMENT) ACT, 1993 (ACT 464)¹

THE CHILDREN'S ACT 1998 (ACT 560)²

COURTS (AMENDMENT) ACT, 2002 (ACT 620)³

THE COURTS (AMENDMENT) ACT, 2004 (674)⁴

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THE FOUR HUNDRED AND FIFTY-NINTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

THE COURTS ACT, 1993

AN ACT to incorporate into the law relating to the courts, the provisions of chapter eleven of the Constitution; to provide for the jurisdiction of Regional Tribunals; to establish lower courts and tribunals, provide for their composition and jurisdiction; to consolidate and reenact the Courts Act, 1971 and to provide for connected purposes.

DATE OF ASSENT: 6TH JULY, 1993

BE IT ENACTED by Parliament as follows:

PART I—SUPERIOR COURTS OF JUDICATURE

Sub Part I—The Supreme Court.

Section 1—Composition of Supreme Court and Qualification of its Justices.

(1) The Supreme Court shall consist of the Chief Justice and not less than nine other Justices of the Supreme Court.

(2) The Supreme Court shall be duly constituted for its work by not less than five Supreme Court Justices except as otherwise provided in section 7 of this Act.

(3) The Chief Justice shall preside at sittings of the Supreme Court and in his absence, the most senior of the Justices of the Supreme Court, as constituted, shall preside.

(4) A person shall not be qualified for appointment as a Justice of the Supreme Court unless he is of high moral character and proven integrity and is of not less than fifteen years' standing as a lawyer.

Section 2—General Jurisdiction of Supreme Court.

(1) The Supreme Court shall be the final court of appeal and shall have such appellate and other jurisdiction as may be conferred on it by the Constitution or by any other law.

(2) The Supreme Court shall not be bound to follow the decisions of any other court.

(3) The Supreme Court may, while treating its own previous decisions as normally binding, depart from a previous decision when it appears to it right to do so; and all other courts shall be bound to follow the decisions of the Supreme Court on questions of law.

(4) For the purposes of hearing and determining a matter within its jurisdiction and the amendment, execution or the enforcement of a judgment or order made on any matter, and for the purposes of any other authority, expressly or by necessary implication given to the Supreme Court by the Constitution or any other law, the Supreme Court shall have all the powers, authority and jurisdiction vested in any court established by the Constitution or any other law.

(5) The determination of any question before the Supreme Court shall be in accordance with the opinion of the majority of the members hearing the case.

Section 3—Original Jurisdiction of Supreme Court.

(1) Subject to the jurisdiction of the High Court in the enforcement of the Fundamental Human Rights and Freedoms as provided in article 33 of the Constitution, the Supreme Court shall have exclusive original jurisdiction in—

(a) all matters relating to the enforcement or interpretation of the Constitution; and

(b) all matters arising as to whether an enactment was made in excess of the powers conferred on Parliament or any other authority or person by law or under the Constitution.

(2) Where an issue that relates to a matter or question referred to in subsection (1) of this section arises in any proceedings in a court other than the Supreme Court, that court shall stay the proceedings and refer the question of law involved to the Supreme Court for determination; and the court in which the question arose shall dispose of the case in accordance with the decision of the Supreme Court.

Section 4—Appellate Jurisdiction of Supreme Court.

(1) An appeal shall lie from a judgment of the Court of Appeal to the Supreme Court—

(a) as of right, in any civil or criminal cause or matter in respect of which an appeal has been brought to the Court of Appeal from a Judgment of the High Court or a Regional Tribunal in the exercise of its original jurisdiction;

(b) with the leave of the Court Appeal, in any other cause or matter, where the case was commenced in a court lower than the High Court or a Regional Tribunal and where the Court of Appeal is satisfied that the case involves a substantial question of law or is in the public interest;

(c) as of right, in any cause or matter relating to the issue or refusal of writ or order of habeas corpus, certiorari, mandamus, prohibition or quo warranto.

(2) Notwithstanding subsection (1) of this section, the Supreme Court may entertain an application for special leave to appeal to the Supreme Court in any cause or matter (including interlocutory matter) civil or criminal, and may grant leave accordingly.

(3) The Supreme Court shall have appellate jurisdiction, to the exclusion of the Court of Appeal to determine matters relating to the conviction or otherwise of a person for high treason or treason by the High Court.

(4) An appeal from a decision of the Judicial Committee of the National House of Chiefs shall lie to the Supreme Court with the leave of that Judicial Committee or the Supreme Court.

(5) Subject to subsection (2) of this section, the Supreme Court shall not entertain any appeal unless the appellant has fulfilled all the conditions of appeal prescribed under the Rules of Court.

Section 5—Supervisory Jurisdiction of Supreme Court.

The Supreme Court shall have supervisory jurisdiction over all courts and over any adjudicating authority and may, in the exercise of that supervisory jurisdiction, issue orders and directions including orders in the nature of habeas corpus, certiorari, mandamus, prohibition and quo warranto for the purpose of enforcing or securing the enforcement of its supervisory power.

Section 6—Power of Supreme Court to Review its Decisions.

(1) The Supreme Court may review any decision made or given by it on such grounds and subject to such conditions as may be prescribed by rules of court.

(2) The Supreme Court, when reviewing its decisions under this section, shall be constituted by not less than seven Justice of the Supreme Court.

Section 7—Powers of a Single Justice of Supreme Court.

A single Justice of the Supreme Court may exercise power vested in the Supreme Court not involving the decision of a cause or matter before the Supreme Court except that—

(a) in criminal matters, where that Justice refuses or grants an application in the exercise of any such power, a person affected by it is entitled to have the application determined by the Supreme Court constituted by three Justices of the Supreme Court; and

(b) in civil matters, any order, direction or decision made or given under this section may be varied, discharged or reversed by the Supreme Court, constituted by three Justices of the Supreme Court.

Section 8—Production of Official Documents in Court.

(1) The Supreme Court shall have exclusive jurisdiction to determine whether an official document shall not be produced in court because its production or the disclosure of its contents will be prejudicial to the security of the State or will be injurious to the public interest.

(2) Where any issue referred to in subsection (1) of this section arises as to the production or otherwise of an official document in any proceedings before any court, other than the Supreme Court the proceedings in that other court shall be suspended while the Supreme Court examines the document and determines whether the document should be produced or not; and the Supreme Court shall make the appropriate order.

(3) The proceedings of the Supreme Court as to whether an official document may be produced shall be held in camera.

(4) For the purpose of this section, the Supreme Court may—

(a) order any person or authority that has custody, legal or otherwise of the document to produce it; and any person so ordered shall produce the document for the purpose of inspection by the Supreme Court; and

(b) determine whether or not the document shall be produced in the Court from which the reference was made after hearing the parties to it or their legal representatives or after having given them the opportunity of being heard.