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CHAPTER 8.

NATIVE COURTS.

40 of 1932,
32 of 1933
(Fifth Sched),
9 of 1937,
1 of 1940,
8 of 1949.

An Ordinance to Consolidate and Amend the Law relating to the Constitution of the Native Courts of the Protectorate of Sierra Leone and the Administration of Justice therein.

[1ST JANUARY, 1933.]

Short title
and con-
struction.
Cap. 60.

1. This Ordinance may be cited as the Native Courts Ordinance, and shall be read and construed as one with the Protectorate Ordinance, (hereinafter called the principal Ordinance) or any Ordinance substituted therefor.

Interpreta-
tion.

2. In this Ordinance, unless the context otherwise requires—
“cause” includes any action, suit or other original proceeding between plaintiff and defendant, and any criminal proceeding;

“suit” includes action and means a civil proceeding commenced by summons or in such other manner as may be prescribed, and does not include any criminal proceeding;

“matter” includes any proceeding in a court not in a cause;

“District Commissioner” includes Assistant District Commissioner.

Courts.

3. (1) In each district of the Protectorate the following shall be Native Courts of law, established and recognized for the administration of justice, namely—

The Courts of the Native Chiefs (hereinafter referred to as Native Courts);

The Native Appeal Courts.

(2) In each chieftom of the Protectorate a court of law may be established and recognized for the administration of justice, as in section 4 provided, which shall be known as “The Combined Court.”

Establish-
ment of
Combined
Courts.

4. Any Paramount Chief, in whose chieftom a considerable number of non-natives have settled or are residing, may apply to the District Commissioner to appoint one of such persons to sit as a joint judge with him or some other chief assistant to and nominated by him in civil disputes which may arise between

natives and non-natives. Upon receipt of such application the District Commissioner may, if satisfied that the person mentioned in the application is, by his position and education, likely to command the support of the other non-natives settled or residing in the said chiefdom, and subject to confirmation by the Governor, appoint such person to sit as joint judge as aforesaid for the period of one year from the date of his appointment. Every such appointment may be cancelled at any time by the Governor, and every such appointment and cancellation shall be notified in the *Gazette*.

5. The Native Courts and the Combined Courts shall administer justice in accordance with native law and custom so far as the same is not repugnant to natural justice, equity and good conscience or incompatible, either directly or indirectly, with any Ordinance applying to the Protectorate, but subject always to the provisions of this Ordinance.

Customary law to be administered in Native Courts.

6. No barrister and solicitor or other person shall be heard or allowed to appear on behalf of the plaintiff, prosecutor or defendant in any cause or matter before a Native Court or a Combined Court.

No legal or other representation before Native or Combined Courts.

7. The Native Courts shall consist of the Native Courts as now existing according to native law and custom and such other Native Courts as may be established under this Ordinance; and such Courts shall have jurisdiction according to native law and custom—

Constitution and jurisdiction of Native Courts.

(1) to administer the estates of deceased persons, so far as they are situated within the jurisdiction of the Native Courts, where such deceased persons are natives; and

(2) to hear and determine—

(a) all civil cases triable by native law arising exclusively between natives, other than a case between two or more Paramount Chiefs or Tribal Authorities involving a question of title to land, or a case in which a debt owing to him in connection with his trade is claimed by the holder of any trading licence;

(b) all criminal cases in which the accused and the person who is, or was, primarily affected by the alleged offence are both natives other than—

(i) cases of murder, manslaughter, rape, pretended witchcraft, person raiding, dealing in persons, cannibalism, robbery with violence, inflicting grievous bodily harm; and

(ii) matters or offences relating to unlawful societies, such as the Human Leopard and Alligator Societies; and

(iii) cases arising out of faction or tribal fights; and

(iv) matters made offences under the provisions of the principal Ordinance or any Ordinance substituted for the same; and

Cap. 34.

(v) Offences under the Personation and Uniforms Ordinance;

(c) any cause or matter arising out of the provisions of any Ordinance which the Native Courts may be authorised to enforce by an Order in Council under section 11:

Provided that such Courts shall in no case inflict punishment involving death or mutilation or grievous bodily harm or imprisonment, with or without hard labour, for any period exceeding six months or a fine exceeding ten pounds in amount or value:

Provided also that the infliction of any unlawful punishment by any such Court shall, in addition to any legal consequences, render the Chief or the president and members constituting the same liable, if the Governor so order, to deprivation of the criminal jurisdiction hereby conferred upon them.

Provincial
Com-
mis-
sioner may
appoint
President.

8. A Provincial Commissioner may from time to time appoint a President and Vice President of a Native Court.

Provincial
Com-
mis-
sioner may
suspend or
dismiss a
court
member.

9. A Provincial Commissioner may dismiss or suspend any member of a Native 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 be expressly reinstated by the Provincial Commissioner.

Sessions of
Native
Courts.

10. A Native Court shall hold sessions at such times and places as the Tribal Authority of the Chiefdom or Chiefdoms consider necessary for the convenient and speedy despatch of the business of the Court:

Provided that the Provincial Commissioner may direct sessions to be held at such times and places as he shall think fit.

11. The Governor in Council may by order confer upon all or any Native Courts jurisdiction to enforce within the local limits of their jurisdiction all or any of the provisions of any Ordinance specified in such order and to impose penalties on persons subject to the jurisdiction of such Courts who offend against such provisions, subject to such restrictions, if any, as may be specified in the order.

Governor in Council may empower a Native Court to enforce penalties under any Ordinance.

12. Where in any chiefdom there is existing and exercising jurisdiction according to native law and custom a Native Court over which a section chief or other member of the Tribal Authority (not being the Paramount Chief) habitually presides, such Native Court shall be subordinate in its jurisdiction to the Chiefdom Court; and any native aggrieved by any order or decision of such subordinate Court who wishes to appeal may appeal to the Chiefdom Court.

Appeals from subordinate native courts within a chiefdom.

13. The Governor may by order direct that any subordinate Court or Courts in a Chiefdom shall cease to exercise jurisdiction and such subordinate Court or Courts shall thereupon cease to exercise jurisdiction.

Power to suppress minor Courts.

14. The Governor may, at the request of the Tribal Authorities of two or more Chiefdoms who desire to be served by a joint Native Court of Appeal, establish by Order a Group Native Appeal Court for these Chiefdoms; whereupon any native of these Chiefdoms aggrieved by any order or decision of his Paramount Chief's Court may, if he wishes to appeal, appeal to the Group Native Appeal Court so established.

Establishment of Group Native Appeal Courts.

15. A Group Native Appeal Court shall consist of the Paramount Chief, or a person deputed by him, and one or more representatives of each Chiefdom of the Group:

Constitution of Group Native Appeal Courts.

Provided that the Paramount Chief and representative of the Chiefdom from which an appeal lies shall not adjudicate upon that particular appeal.

16. At each session of a Group Native Appeal Court the Paramount Chief, of those constituting the Court, who has held office as Paramount Chief for the longest period of time, or such one of their number as the members of the Court shall select, shall preside.

President of Group Native Appeal Court.

17. A Group Native Appeal Court shall have the same jurisdiction and powers as are exercised according to native law

Jurisdiction and powers.