

CHAPTER 15.

WEST AFRICAN COURT OF APPEAL (CRIMINAL CASES).

ARRANGEMENT OF SECTIONS.

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CHAPTER 15.

WEST AFRICAN COURT OF APPEAL (CRIMINAL CASES).

An Ordinance to make provision for appeals to the West African Court of Appeal in Criminal Cases. 10 of 1929.
3 of 1940.

[10TH MARCH, 1930.]

1. (1) This Ordinance may be cited as the West African Court of Appeal (Criminal Cases) Ordinance. Short title.
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(2) This Ordinance shall apply to the Colony and the Protectorate, and to all persons convicted after the commencement of this Ordinance.

(3) This Ordinance shall come into operation on such date as the Governor may fix by a proclamation in the *Gazette*.

2. In this Ordinance, unless the context otherwise requires— Interpreta-
tion.

“Order in Council” means the West African Court of Appeal Order in Council, 1948;

“Court of Appeal” means the West African Court of Appeal established by the said Order in Council;

“Rules of Court” means rules of court made under the said Order in Council;

* See footnote to Chapter 14.

“appellant” includes a person who has been convicted and desires to appeal under this Ordinance;

“verdict” includes the decision of a judge as to whether or not an accused person is guilty in cases where such decision rests with the judge;

“conviction” means a conviction on information by or in the Supreme Court;

“information” shall be deemed to include a coroner’s inquisition;

“sentence” includes any order of the Court made on conviction with reference to the person convicted or his wife or children;

“Deputy Registrar” means the Deputy Registrar of the Court of Appeal in Sierra Leone.

RIGHT OF APPEAL AND DETERMINATION OF APPEALS.

Right of appeal in criminal cases.

3. A person convicted on information by or in the Supreme Court may appeal to the Court of Appeal—

(a) against his conviction on any ground of appeal which involves a question of law alone; and

(b) with the leave of the Court of Appeal or upon the Certificate of the Judge who tried him that it is a fit case for appeal against his conviction on any ground of appeal which involves a question of fact alone, or a question of mixed law and fact, or any other ground which appears to the Court to be a sufficient ground of appeal; and

(c) with the leave of the Court of Appeal against the sentence passed on his conviction, unless the sentence is one fixed by law.

Determination of appeals in ordinary cases.

4. (1) The Court of Appeal on any such appeal against conviction shall allow the appeal if they think that the verdict should be set aside on the ground that it is unreasonable, or cannot be supported having regard to the evidence, or that the judgment of the Court before whom the appellant was convicted should be set aside on the ground of a wrong decision of any question of law, or that on any ground there was a miscarriage of justice, and in any other case shall dismiss the appeal:

Provided that the Court may, notwithstanding that they are of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if they consider that no substantial miscarriage of justice has actually occurred.

(2) Subject to the special provisions of this Ordinance, the Court of Appeal shall, if they allow an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered.

(3) On an appeal against sentence the Court of Appeal shall, if they think that a different sentence should have been passed, quash the sentence passed at the trial, and pass such other sentence warranted in law by the verdict (whether more or less severe) in substitution therefor as they think ought to have been passed, and in any other case shall dismiss the appeal.

5. (1) If it appears to the Court of Appeal that an appellant, though not properly convicted on some count or part of the information, has been properly convicted on some other count or part of the information, the court may either affirm the sentence passed on the appellant at the trial, or pass such sentence in substitution therefor as they think proper, and as may be warranted in law by the verdict on the count or part of the information on which the court consider that the appellant has been properly convicted.

Powers of
court in
special cases.

(2) Where an appellant has been convicted of an offence and the judge who tried him or the jury (as the case may be) could, on the information, have found him guilty of some other offence, and on the finding of such judge or the jury it appears to the Court of Appeal that such judge or the jury must have been satisfied of facts which proved him guilty of that other offence, the court may, instead of allowing or dismissing the appeal, substitute for the verdict found by such judge or the jury a verdict of guilty of that other offence, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law for that other offence, not being a sentence of greater severity.

(3) Where on the conviction of the appellant by a jury the jury have found a special verdict, and the Court of Appeal consider that a wrong conclusion has been arrived at by the court before which the appellant has been convicted on the effect of that verdict, the Court of Appeal may, instead of allowing the appeal, order such conclusion to be recorded as appears to the court to be in law required by the verdict, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law.

(4) If on any appeal it appears to the Court of Appeal that, although the appellant was guilty of the act or omission charged against him, he was insane at the time the act was done or omission made so as not to be responsible according to law

for his actions, the court may quash the sentence passed at the trial and order the appellant to be kept in custody until Her Majesty's pleasure shall be known, and such order shall have the same effect as if it were made by the Judge by whom the appellant was tried.

(5) Where the Court of Appeal is of opinion that the proceedings in the trial court were a nullity, either through want of jurisdiction or otherwise, the Court may order the appellant to be tried by a court of competent jurisdiction.

Revesting
and restitu-
tion of
property on
conviction.

6. (1) The operation of any order for the restitution of any property to any person made on a conviction on information and the revesting, in case of any such conviction, in the original owner or his personal representative of the property in stolen goods, shall (unless the court before whom the conviction takes place direct to the contrary in any case in which, in their opinion, the title to the property is not in dispute) be suspended—

(a) in any case until the expiration of ten days after the date of the conviction; and

(b) in cases where notice of appeal or leave to appeal is given within ten days after the date of conviction, until the determination of the appeal;

and in cases where the operation of any such order, or such revesting, is suspended until the determination of the appeal, the order or such revesting, as the case may be, shall not take effect as to the property in question if the conviction is quashed on appeal.

(2) The Court of Appeal may by order annul or vary any order made on a trial for the restitution of any property to any person, although the conviction is not quashed; and the order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

PROCEDURE.

Time for
appealing.

7. (1) Where a person convicted desires to appeal to the Court of Appeal, or to obtain the leave of that court to appeal, he shall give notice of appeal or notice of his application for leave to appeal in such manner as may be directed by rules of court within ten days of the date of conviction:

Except in the case of a conviction involving sentence of death, the time, within which notice of appeal or notice of an application for leave to appeal may be given, may be extended at any time by the Court of Appeal or by the Court before whom the appellant was convicted.