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SCHEDULE.

CHAPTER 16.**APPEALS FROM MAGISTRATES' COURTS.****An Ordinance to make provision for appeals from the decisions of Magistrates.**

[25TH NOVEMBER, 1935.]

24 of 1935.
7 of 1945.
29 of 1946.
33 of 1947.
20 of 1954.

Short title.

1. This Ordinance may be cited as the Appeals from Magistrates' Courts Ordinance, and shall apply to the Colony and the Protectorate.

Definitions.

2. In this Ordinance—

“ Appeal Court ” means the Supreme Court;

“ party ” includes any prosecutor, complainant or informant.

Appeals from Magistrates.

3. (1) Save as hereinafter provided, any person dissatisfied with a decision of a Magistrate in any civil or criminal proceedings to which he is a party may appeal therefrom to the Appeal Court.

(2) The Attorney General may appeal to the Appeal Court from the decision of a Magistrate even though he was not a party to the proceedings.

(3) An appeal to the Appeal Court may be on a matter of fact as well as on a matter of law, provided that there shall be no appeal against an acquittal on a matter of fact.

No appeal on plea of guilty.

4. No appeal shall be had in the case of any accused person who has pleaded guilty and has been convicted on such plea by a Court of summary jurisdiction, except as to the extent or legality of the sentence:

Provided that there shall be no appeal against a sentence of imprisonment passed by such Court in default of the payment of a fine, when no substantive sentence of imprisonment has also been passed unless such sentence in default is an unlawful one.

Limitation.

5. Every appeal against any judgment, decision, order or sentence of a Magistrate's Court established in the Colony shall be entered within fifteen days of the date of such judgment, decision, order or sentence, and every such appeal against any decision of a Magistrate's Court established in the Protectorate shall be entered within thirty days of the date of such judgment, decision, order or sentence:

Provided that the Supreme Court may for good cause shown extend the aforesaid periods in such manner as it may think just.

6. Every appeal shall be made in the form of a petition in writing containing the grounds upon which it is intended to prosecute the appeal, presented by the appellant or his solicitor to the Appeal Court, and every such petition shall state briefly the substance of the decision appealed against: Petition of appeal.

Provided that in the Protectorate, and notwithstanding the provisions of the immediately preceding section, any person desirous of appealing may, in lieu of a petition in writing, give notice of appeal orally and in open court immediately after the decision of the Court is pronounced, in which case he shall make a contemporaneous oral statement of the grounds of appeal. The fact of such appeal and the grounds thereof shall be recorded in writing by the Magistrate and transmitted by him to the Court of Appeal. 33 of 1947.

7. If in the case of a criminal appeal the appellant is in prison, he may present his petition of appeal and the copies accompanying the same to the Director of Prisons, who shall thereupon forward such petition to the Registrar of the Appeal Court. Appellant in prison.

8. Upon receipt of a petition of appeal the Registrar of the Appeal Court shall notify the Magistrate and call for a record of the case and shall cause a copy of the petition to be served upon the respondent. Copies of petition to be served.

9. If the Magistrate's decision be for the payment of any fine or money, the appellant shall pay the amount thereof into court within the fifteen days allowed for appealing, together with such further amount or sum of money as the Magistrate shall be reference to the Schedule and section 36 consider ample and sufficient to cover the costs of appeal, or give security in double the said amounts within such time to abide the judgment of the Appeal Court. Payment into court of fine and of costs of appeal.

10. If the decision or judgment be in favour of the defendant, or a non-suit or dismissal of the plaintiff's claim, or of the charge or complaint against the accused, the plaintiff or complainant, on appealing, shall in like manner pay into the Magistrate's Court the sum of money fixed by the Magistrate as the probable costs of appeal, or give security in double the amount: Security for costs of appeal when plaintiff or complainant appeals.

Provided that nothing in this section shall apply to any appeal instituted by the Attorney General.

In case of imprisonment appellant to pay or give security and to remain in prison until security be given.

11. (1) If the sentence be imprisonment, in addition to or without any fine, the appellant shall, in respect to such fine, pay the amount into Court, together with the amount fixed for the costs of appeal, or give such security as aforesaid; and in respect to such imprisonment the appellant or person sentenced to be imprisoned shall be detained in gaol to abide the judgment of the Appeal Court unless or until he shall give security for the costs of appeal and to abide the judgment of the Appeal Court and to surrender himself into the custody of the Court or of the Sheriff or Director of Prisons to undergo such sentence.

Amount of security.

(2) The amount of such security in respect to such imprisonment shall be in the discretion of the Magistrate; and upon such payment being made and security entered into as herein required the appellant or person sentenced to imprisonment shall be discharged from custody.

Nature of security.

12. The nature of the security hereinbefore required to be given shall be in the discretion of the Magistrate, and may be by the written undertaking of the appellant and one or more substantial sureties, entered on the record of the case and signed by them and attested by a witness or witnesses, to pay the amount fixed by the Magistrate, or by depositing in Court, if the Magistrate shall so allow, any article of property of the plaintiff or of his sureties in value sufficient to cover the amount fixed by the Magistrate, or security in such other manner as the Magistrate may think proper to allow or accept.

Appellant imprisoned may require his being taken to Freetown gaol.

13. If the appellant be detained in custody in any district other than the Police District of Freetown by reason of his not being able to give the required security he may demand that he be taken to Freetown and there be detained in custody in gaol until the appeal be heard or the money be deposited in Court or security be given as aforesaid, or as may be fixed by the Magistrate or by the Appeal Court; and he shall thereupon be taken to Freetown, and on his arrival in Freetown the Director of Prisons shall immediately notify the Registrar of the Appeal Court of such appellant being in the Freetown gaol.

Transmission of record of appeal.

14. Upon payments being made and security entered into in compliance with the foregoing provisions, a copy of the record of the case certified under the hand of the Magistrate as a true copy and the original documents connected therewith

shall be forwarded without delay to the Registrar of the Appeal Court and on payment of the required fees copies of the said record and documents shall also be furnished by the Magistrate to the appellant and respondent:

Provided that the Attorney General shall be entitled to receive any such copies without payment.

15. An appellant may amend or add to the grounds of his appeal at any time within the period allowed by section 5 on giving notice in writing to the Appeal Court. After the expiration of that period no such amendment or addition shall be made except by leave of the Appeal Court.

Additional grounds of appeal.
29 of 1946.

16. The Registrar of the Appeal Court shall thereupon cause notice to be given to the appellant or his solicitor and to the respondent or his solicitor of the time and place at which such appeal shall be heard.

Notice of time and place of hearing.

17. If neither party be present on the day on which the appeal is to be heard, the hearing thereof may be adjourned, or the Appeal Court may proceed to deal with the appeal upon the evidence taken before the Magistrate, and for that purpose shall have all the powers conferred upon it by section 19.

Procedure in absence of both parties.

18. If either or both parties appear the Appeal Court shall proceed to hear the appeal, and may deal with it on the evidence taken before the Magistrate, or may examine all or any of the witnesses called before the Magistrate or receive such other evidence as it thinks fit before dealing therewith. In either case the Court shall have all the powers conferred upon it by section 19.

Procedure where one or both parties attend.

19. The Appeal Court may dismiss an appeal or reverse, vary or amend any judgment, decision, order or sentence which shall have been given contrary to law, or allow an appeal on any ground of law or fact, or vary the punishment inflicted by the Magistrate by substituting therefor any other punishment, whether more or less severe, which the law allows, or remit the case to the same or another Magistrate for re-hearing or taking further evidence therein. In every case the Appeal Court shall give all consequential directions which may be proper or necessary; and in every case the costs of the appeal shall be in the discretion of the Court.

Powers of the Appeal Court.

20. (1) When a case is decided on appeal by the Appeal Court, it shall certify its judgment or order to the Court by

Order of Appeal Court to be certified to lower Court.