

**THE JUDICATURE ACT 1967****No. 16 of 1967***Date of assent: 4th July 1967**Date of commencement: By notice***ARRANGEMENT OF SECTIONS***Section*

- 1—Short title and commencement.
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**SCHEDULE**

**An Act of Parliament to make provision concerning the jurisdiction of the High Court and subordinate courts, and to make additional provision concerning the High Court and subordinate courts and the judges and officers of courts**

ENACTED by the Parliament of Kenya as follows:—

1. This Act may be cited as the Judicature Act 1967, and shall come into force on such date as the Attorney-General may by notice in the Gazette appoint.

Short title and commencement.

2. In this Act—

“the High Court” means the High Court established by section 171 of the Constitution;

Interpretation.

“judge” means the Chief Justice or a puisne judge, appointed under section 172 of the Constitution.

3. (1) The jurisdiction of the High Court and of all subordinate courts shall be exercised in conformity with—  
(a) the Constitution;

Mode of exercise of jurisdiction.

(b) subject thereto, all other written laws; including the Acts of Parliament of the United Kingdom cited in Part I of the Schedule of this Act, modified in accordance with Part II of that Schedule;

(c) subject thereto and so far as the same do not extend or apply, the substance of the common law, the doctrines of equity and the statutes of general application in force in England on the 12th August 1897, and the procedure and practice observed in courts of justice in England at that date:

Provided that the said common law, doctrines of equity and statutes of general application shall apply so far only as the circumstances of Kenya and its inhabitants permit and subject to such qualifications as those circumstances may render necessary.

(2) The High Court and all subordinate courts shall be guided by African customary law in civil cases in which one or more of the parties is subject to it or affected by it, so far as it is applicable and is not repugnant to justice and morality or inconsistent with any written law, and shall decide all such cases according to substantial justice without undue regard to technicalities of procedure and without undue delay.

4. (1) The High Court shall be a court of admiralty, and shall exercise admiralty jurisdiction in all matters arising on the high seas, or in territorial waters, or upon any lake or other navigable inland waters in Kenya.

(2) The admiralty jurisdiction of the High Court shall be exercisable—

(a) over and in respect of the same persons, things and matters, and

(b) in the same manner and to the same extent, and

(c) in accordance with the same procedure,

as in the High Court in England, and shall be exercised in conformity with international laws and the comity of nations.

(3) In the exercise of its admiralty jurisdiction, the High Court may exercise all the powers which it possesses for the purpose of its other civil jurisdiction.

(4) An appeal shall lie from any judgment, order or decision of the High Court in the exercise of its admiralty jurisdiction within the same time and in the same manner as an appeal from a decree of the High Court under Part VII of the Civil Procedure Act.

5. (1) The High Court shall have the same power to punish for contempt of court as is for the time being

High Court  
is court of  
admiralty.

Cap. 5 (1948).

Contempt of  
court.

possessed by the High Court of Justice in England, and such power shall extend to upholding the authority and dignity of subordinate courts.

(2) An order of the High Court made by way of punishment for contempt of court shall be appealable as if it were a conviction and sentence made in the exercise of the ordinary original criminal jurisdiction of the High Court.

6. No judge, magistrate or justice of the peace, and no other person acting judicially, shall be liable to be sued in any civil court for any act done or ordered by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction, provided he, at the time, in good faith believed himself to have jurisdiction to do or order the act complained of; and no officer of any court or other person bound to execute the lawful warrants, orders or other process of any judge or such person shall be liable to be sued in any court for the execution of any warrant, order or process which he would have been bound to execute if within the jurisdiction of the person issuing the same.

Protection  
of judges  
and officers.

7. For the purposes of section 171 (2) of the Constitution, the number of puisne judges of the High Court shall be eleven.

Number of  
puisne  
judges.

8. (1) The puisne judges shall rank among themselves according to the priority of their respective appointments as puisne judges:

Precedence  
of puisne  
judges.

Provided that the President, if he is of the opinion that there are sufficient reasons for so doing, may determine the precedence of puisne judges irrespective of the priority of their respective appointments.

(2) Persons appointed to act as puisne judges under section 172 (5) of the Constitution shall rank after puisne judges, and shall rank among themselves according to the priority of their respective acting appointments.

9. For the purposes of section 173 (1) of the Constitution, the age at which a person holding the office of judge shall vacate his office shall be sixty-eight years.

Retiring age.

10. (1) The Chief Justice may make rules of court for regulating the practice and procedure of the High Court and, subject to any other written law, that of subordinate courts.

Rules.

Laws of Kenya,  
Vol. I.

(2) The Rules made by the Supreme Court under section 9 of the Kenya Colony Order in Council 1921 shall be deemed to have been made under subsection (1) of this section.

Repeal.  
L.N. 158/1958,  
L.N. 319/1963.

14 of 1965.

**11.** Sections 69, 70 and the Third Schedule of the Kenya (Constitution) Order in Council 1958, the Kenya (Jurisdiction of Courts and Pending Proceedings) Regulations 1963, and section 6 (8) of the Constitution of Kenya (Amendment) Act 1965, are repealed.

SCHEDULE

(s. 3 (1) (b))

PART I

The Admiralty Offences (Colonial) Act 1849.  
The Evidence Act 1951, sections 7 and 11.  
The Foreign Tribunals Evidence Act 1856.  
The Evidence by Commission Act 1859.  
The British Law Ascertainment Act 1859.  
The Admiralty Offences (Colonial) Act 1860.  
The Foreign Law Ascertainment Act 1861.  
The Conveyancing (Scotland) Act 1874, section 51.  
The Evidence by Commission Act 1885.

PART II

1. The President shall replace the Governor, and a magistrate holding a subordinate court of the first class shall replace a Magistrate or Justice of the Peace.

2. Where under the Merchant Shipping Act 1894 anything is authorized to be done by, to or before a British Consular Officer, such thing may be done by, to or before a public officer appointed for the purpose by the Minister.

3. In section 51 of the Conveyancing (Scotland) Act 1874, the High Court shall replace a Court of Probate.