



Pesuruhjaya Penyemak Undang
(Commissioner of Law Revision)
Malaysia

LAWS OF MALAYSIA

Act 91

COURTS OF JUDICATURE ACT, 1964

(Revised—1972)

Undang
Revision

Revised up to 1st July, 1972

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LAWS OF MALAYSIA

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COURTS OF JUDICATURE ACT, 1964

(Revised—1972)

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LAWS OF MALAYSIA

Act 91

COURTS OF JUDICATURE ACT, 1964

(Revised—1972)

An Act relating to the Superior Courts of Judicature.

[Section 5—16th September, 1963;
Remainder—16th March, 1964.]

PART I

PRELIMINARY AND GENERAL

Preliminary

1. This Act may be cited as the Courts of Judicature Act, Citation. 1964.

2. (Omitted).

3. In this Act unless the context otherwise requires—

Interpreta-
tion.

“action” means a civil proceeding commenced by writ or in such other manner as is prescribed by rules of court, but does not include a criminal proceeding;

“cause” includes any action, suit or other original proceeding between a plaintiff and defendant, and any criminal proceeding;

“Chief Justice” means the Chief Justice of the High Court in Malaya or of the High Court in Borneo, as the case may require;

“Constitution” means the Constitution of Malaysia;

“Court” means the Federal ^{Supreme} Court or the High Court, as the case may require;

Act A 566

“High Court” means the High Court in Malaya and the High Court in Borneo or either of them, as the case may require;

“Judge” means a Judge of the Federal ^{Supreme} Court or of the High Court and includes the Lord President and a Chief Justice;

“Judicial Committee” means the Judicial Committee of Her Britannic Majesty’s Privy Council;

“local jurisdiction” means—

(a) in the case of the High Court in Malaya, the territory comprised in the States of Malaya, namely, Johore, Kedah, Kelantan, Malacca, Negri Sembilan, Pahang, Penang, Perak, Perlis, Selangor and Trengganu; and

(b) in the case of the High Court in Borneo, the territory comprised in the Borneo States, namely, Sabah and Sarawak,

*land the air space above those States and the territorial waters.
(Act A 328/76)*

including, in either case, the territorial waters;

“Malaysia Day” means the 16th September, 1963;

“matter” includes every proceeding in court not in a cause; *“permanent resident”*

“proceeding” means any proceeding whatsoever of a civil or criminal nature and includes an application at any stage of a proceeding;

“Registrar” means the Chief Registrar and any Registrar, Deputy Registrar, Senior Assistant Registrar or Assistant Registrar appointed under section 10;

“subordinate court” means any inferior court from the decisions of which by reason of any written law there is a right of appeal to the High Court and means in relation to the High Court any such Court as by any written law has jurisdiction within the local jurisdiction of the High Court.

Provision to prevent conflict of laws.

4. In the event of inconsistency or conflict between this Act and any other written law other than the Constitution in force at the commencement of this Act, the provisions of this Act shall prevail.

Amendment of laws.

5. (1) The written laws in force in Malaysia on Malaysia Day are hereby amended by the substitution wherever the expression “Court of Appeal” or “Supreme Court” occurs therein—

(a) of “Federal Court” for “Court of Appeal”; and

(b) of—

(i) “Federal Court and the High Court”;

(ii) “Federal Court”; or

(iii) “High Court”;

for “Supreme Court” as the context may require.

(2) This section shall be deemed to have come into force on Malaysia Day.

General

6. (1) The Federal Court shall have and use as occasion may require a seal or stamp of such nature and pattern as the Lord President may, by notification in the *Gazette*, prescribe. Seals of Courts.

(2) The High Court shall have and use as occasion may require a seal or stamp of such nature and pattern as the Chief Justice may, by notification in the *Gazette*, prescribe.

7. (1) All writs, summonses, warrants, orders, rules, notices and mandatory processes whatsoever, whether civil or criminal, shall be issued and shall be expressed to be issued by the Lord President or the Chief Justice, as the case may be, in the name of the Yang di-Pertuan Agong and shall be signed by the Registrar and sealed or stamped with the seal or stamp of the Court issuing or making the same. Process of Courts.

(2) All writs, summonses, warrants, orders, rules, notices and other processes whatsoever, whether civil or criminal, issued or made by or by the authority of the Court respecting any cause or matter within its jurisdiction shall have full force and effect and may be served or executed anywhere within Malaysia.

8. The Judges shall take precedence in the following order: Precedence of Judges.

First the Lord President;

Second the Chief Justices in such order as may be assigned to them by the Yang di-Pertuan Agong;

Third the Judges of the Federal Court according to the priority of their respective appointments as Judges of the Federal Court;

Fourth the other Judges according to the priority of their respective appointments as Judges.

9. (1) Whenever during any period, owing to illness or absence from Malaysia or any other cause, the Lord President is unable to exercise the powers or perform the duties of his office (including his functions under the Constitution) the powers shall be had and may be exercised and the duties shall be performed by the Judge of the Federal Court having precedence next after him who is present in Malaysia and able to act. Exercise of powers during incapacity or absence.

(2) Whenever during any period, owing to illness or absence from Malaysia or any other cause, a Chief Justice

is unable to exercise the powers or perform the duties of his office the powers shall be had and may be exercised and the duties shall be performed by the Judge of the Federal Court or the Judge of the said High Court having precedence next after the said Chief Justice who is present in Malaysia and able to act.

Registrars.

10. (1) Subject to subsection (4), the Chief Registrar, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the Federal Court and the Registrars, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the High Courts shall be appointed by the Yang di-Pertuan Agong with the concurrence in respect of the Federal Court of the Lord President and in respect of any High Court of the Chief Justice thereof.

(2) Subject to any directions that the Lord President may issue, the Registrars, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the High Court may exercise the powers and perform the duties of the Chief Registrar, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars respectively of the Federal Court.

(3) The Chief Registrar, Registrars, Deputy Registrars and Assistant Registrars appointed under this Act shall subject to this Act or any other written law have the same jurisdiction, powers and duties as the Masters of the Supreme Court, Clerks of Criminal Courts, Registrars and like officers in the Supreme Court of Judicature in England and, in addition, such further jurisdiction, powers and duties as may be prescribed by rules of court.

(4) The Presidents of the Sessions Court in West Malaysia and the First Class Magistrates in East Malaysia the local limits of whose jurisdiction extend to the towns in which registries of the High Court are situate shall be ex officio Assistant Registrars of the High Court for all purposes.

Commissioners for Oaths.

11. (1) Any Registrar and any person appointed by the Lord President to be a Commissioner for Oaths (subject to any limitations expressed in his appointment) may do all or any of the following things:

(a) receive acknowledgments of married women in all cases where acknowledgments are required by law to be taken before a public officer;

- (b) receive acknowledgments of recognizances of bail and bail-bonds;
- (c) administer oaths for—
 - (i) the justification for bail;
 - (ii) taking any affidavit or affirmation;
 - (iii) receiving and taking the answer, plea, demurrer, disclaimer, allegation or examination of any party or parties to any action;
 - (iv) the examination of any witnesses upon any interrogatories or de bene esse or in chief or on any other occasions;
 - (v) swearing executors and administrators; and
 - (vi) swearing persons in any action, matter or proceeding, which is pending or about to be instituted in any court in any of its jurisdictions; and
- (d) take and receive statutory declarations.

(2) The Lord President may make rules for the appointment, conduct, fees to be charged by and for all things appertaining to Commissioners for Oaths and persons appointed by him under subsection (1).

12. (1) The Registrar of the High Court shall be Sheriff and there shall be such bailiffs, process servers and other subordinate officers as are appointed. Sheriffs.

(2) The Sheriff or his officers shall execute all writs, summonses, warrants, orders, rules, notices, commands and other processes of any court which are given to him by the Court for that purpose, and shall make a return of the same together with the manner of the execution thereof to the court from which the process issued, and shall receive all such persons as are committed to his custody by the Court.

(3) The Sheriff or his officers in executing any writ of seizure and sale or any other writ of execution or of distress may effect an entry into any building, and for that purpose if necessary may break open any outer or inner door or window of the building or any receptacle therein, using such force as is reasonably necessary to effect an entry.

13. (1) The Federal Court shall have power to punish any contempt of itself. Contempt.

(2) The High Court shall have power to punish any contempt of itself.

Protection of Judges and other judicial officers.

14. (1) No Judge or other person acting judicially shall be liable to be sued in any civil court for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction, nor shall any order for costs be made against him, provided that he at the time in good faith believed himself to have jurisdiction to do or order the act complained of.

(2) No officer of any court or other person bound to execute the lawful warrants or orders of any Judge or other person acting judicially shall be liable to be sued in any civil court for the execution of any warrant or order which he would be bound to execute if within the jurisdiction of the person issuing the same.

(3) No sheriff, bailiff or other officer of the Court charged with the duty of executing any judgment, order or warrant of distress, or of attaching any property before judgment, shall be liable to be sued in any civil court in respect of any property seized by him, or in respect of damage caused to any property in effecting or attempting to effect the seizure, unless it shall appear that he knowingly acted in excess of the authority conferred upon him by the writ, warrant or order in question, and he shall not be deemed to have acted knowingly in excess of his authority merely by reason of knowing of the existence of a dispute as to the ownership of the property so seized.

Courts to be open and public.

15. (1) The place in which any Court is held for the purpose of trying any cause or matter, civil or criminal, shall be deemed an open and public court to which the public generally may have access:

Provided that the Court shall have power to hear any cause or matter or any part thereof in camera if the Court is satisfied that it is expedient in the interests of justice, public safety, public security or propriety, or for other sufficient reason so to do.

(2) A Court may at any time order that no person shall publish the name, address or photograph of any witness in any cause or matter or any part thereof tried or held or to be tried or held before it, or any evidence or any other thing likely to lead to the identification of any such witness; and any person who acts in contravention of any such order

shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three years or to both.

Amendment Act 160

16. Rules of court may be made for the following purposes: Rules of court.

- (a) for regulating and prescribing the procedure (including the method of pleading) and the practice to be followed in the High Court and the Federal Court in all causes and matters whatsoever in or with respect to which those Courts have for the time being jurisdiction (including the procedure and practice to be followed in the registries of those Courts), and any matters incidental to or relating to any such procedure or practice, including (but without prejudice to the generality of the foregoing provision) the manner in which, and the time within which, any applications which are to be made to a High Court or to the Federal Court shall be made;
- (b) for regulating and prescribing the procedure on appeals from any court or person to a High Court or the Federal Court;
- (c) for regulating and prescribing the procedure on appeals from the Federal Court to the Yang di-Pertuan Agong;
- (d) for regulating the enforcement and execution by a High Court of the decrees, judgments and orders of the Federal Court or of the other High Court;
- (e) for prescribing what part of the business which may be transacted and of the jurisdiction which may be exercised by Judges in court or in chambers may be transacted or exercised by Registrars;
- (f) for prescribing the fees and percentages to be taken in any Court and for regulating any matters relating to the costs of proceedings in any Court;
- (g) for regulating the means by which particular facts may be proved, and the mode in which evidence thereof may be given, in any proceedings or on any application in connection with or at any stage of any proceedings;
- (h) for regulating the joinder of parties and for prescribing in what cases persons absent, but having an interest in a cause or matter, shall be bound by

any order made therein, and in what cases orders may be made for the representation of absent persons by one or more parties to a cause or matter;

- (i) for regulating the rate of interest payable on all debts, including judgment debts, or on the sums found due on taking accounts between parties, or on sums found due and unpaid by receivers or other persons liable to account to the Court:

Provided that in no case shall any rate of interest exceed eight per centum per annum, unless it has been otherwise agreed between parties;

- (j) for regulating the modes in which a writ of seizure and sale may be executed, and the manner in which seizure may be made of any property seizable thereunder, and the mode of sale by the Sheriff or any other officer of the Court of any property so seized, and the manner in which the right and title of purchasers of that property at any sale by any officer of the Court may be secured to the purchasers;
- (k) for regulating the discovery of a judgment debtor's property in aid of the execution of any judgment;
- (l) for regulating the taking of evidence before an examiner or on commission or by letters of request, and for prescribing the circumstances in which evidence so taken may be read on the trial of an action;
- (m) for prescribing in what cases the Court may act upon the certificate of accountants, actuaries or other scientific persons;
- (n) for prescribing the duties of the Accountant-General in respect of funds or property in the custody of the Court, and in particular for prescribing the mode of transfer of securities into the name of the Accountant-General, and the method of investment of any such funds, and the rate of interest to be charged thereon, and, until other provision is made in respect thereof, the manner in which unclaimed funds may be dealt with;
- (o) for amending, altering, or adding to the forms set out in any written law relating to criminal procedure; and

(p) for any purpose for which rules of court may be made under any written law.

17. (1) Rules of court under section 16 may be made by a Rules Committee appointed as hereinafter provided. Making of rules of court.

(2) The Rules Committee shall consist of the following persons:

(a) the Lord President, who shall be the Chairman of the Committee;

(b) the Chief Justices;

(c) the Judges:

Provided that only such Judge or Judges as the Lord President may call upon to attend any particular meeting shall attend that meeting;

(d) the Attorney General or his nominee;

(e) two advocates practising in the States of Malaya nominated by the Bar Council and appointed by the Chief Justice of the High Court in Malaya for such period as he may specify in writing; and

(f) one advocate practising in the Borneo States appointed by the Chief Justice of the High Court in Borneo for such period as he may specify in writing.

(g) (*Repealed*).

(3) At any meeting of the Rules Committee five members shall form a quorum. All questions shall be decided by a majority of votes of members present and voting:

Provided that—

(a) no rules shall be made relating to the Federal Court without the consent thereto of the Lord President; and

(b) no rules shall be made relating to any High Court without the consent thereto of the Chief Justice of that High Court.

(4) Rules of court shall be published in the *Gazette*, and shall come into force on the date of publication or on such other date as may be specified therein.

(5) Rules of court shall be laid before the Dewan Ra'ayat at the first meeting after their publication, and may be disapproved in whole or in part by a resolution of the Dewan Ra'ayat.

(6) So far as they are not inconsistent with this Act or any other written law and until revoked by the Rules Committee the following rules shall have full force and effect as if they were made under this Act:

L.N. 254/63.

(a) all Transitional Rules made by the Lord President under section 87 of the Malaysia Act; and

(b) all rules of court relating to any High Court which were in force immediately before the coming into operation of this Act.

(7) (Omitted).

Council of Judges.

17A. (1) The Lord President may convene a Council of all the Judges as and when he deems it necessary but so that there shall be at least one meeting in each year.

(2) The Chief Justice may, with the approval of the Lord President, convene a Council of Judges of the High Court as and when he deems it necessary.

PART II THE HIGH COURT

General

Proceedings in High Court to be disposed of by single Judge.

18. Every proceeding in the High Court and all business arising thereout shall, save as provided by any written law, be heard and disposed of before a single Judge.

Sittings of the High Court.

19. The High Court shall sit at such times and at such places as the Chief Justice shall from time to time appoint.

Distribution of business.

20. The distribution of business among the Judges of the High Court shall be made in accordance with such directions, which may be of a general or a particular nature, as may be given by the Chief Justice.

Vacations.

21. The Chief Justice may make rules as to vacations of the High Court not exceeding one month in any calendar year.

Original Jurisdiction

Subs. A 328
Criminal jurisdiction.

22. (1) The High Court shall have jurisdiction to try all offences committed—

(a) within its local jurisdiction;

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- (b) on the high seas on board any ship or aircraft registered at any place in Malaysia;
- (c) by any person who is a citizen or a subject of the Ruler of any State in Malaysia, on the high seas or on any aircraft;
- (d) by any person on the high seas where the offence is piracy by the law of nations.

(2) The High Court may pass any sentence allowed by law.

23. (1) Subject to the limitations contained in Article 128 of the Constitution the High Court shall have jurisdiction to try all civil proceedings where—

Civil jurisdiction—
general.

- (a) the cause of action arose, or
- (b) the defendant or one of several defendants resides or has his place of business, or
- (c) the facts on which the proceedings are based exist or are alleged to have occurred, or
- (d) any land the ownership of which is disputed is situated,

within the local jurisdiction of the Court and notwithstanding anything contained in this section in any case where all parties consent in writing within the local jurisdiction of the other High Court.

(2) Without prejudice to the generality of subsection (1), the High Court shall have such jurisdiction as was vested in it immediately prior to Malaysia Day and such other jurisdiction as may be vested in it by any written law in force within its local jurisdiction.

24. Without prejudice to the generality of section 23 the civil jurisdiction of the High Court shall include—

Civil jurisdiction—
specific.

- (a) jurisdiction under any written law relating to divorce and matrimonial causes;
- (b) the same jurisdiction and authority in relation to matters of admiralty as is had by the High Court of Justice in England under the United Kingdom Administration of Justice Act, 1956;
- (c) jurisdiction under any written law relating to bankruptcy or to companies;
- (d) jurisdiction to appoint and control guardians of infants and generally over the person and property of infants;

4 and 5,
Eliz. 2,
c. 46.

- (e) jurisdiction to appoint and control guardians and keepers of the person and estates of idiots, mentally disordered persons and persons of unsound mind; and
- (f) jurisdiction to grant probates of wills and testaments and letters of administration of the estates of deceased persons leaving property within the territorial jurisdiction of the Court and to alter or revoke such grants.

Reference
under order
of Court.

24A. (1) The High Court may refer any question arising in any cause or matter, other than a criminal proceeding by the Public Prosecutor, for inquiry or report to any special referee. The report of a special referee may be adopted wholly or partially by the High Court and enforced as a decree, judgment or order to the same effect.

(2) In any cause or matter other than a criminal proceeding by the Public Prosecutor—

- (a) if all the parties interested who are not under disability consent;
- (b) if the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot, in the opinion of the High Court, conveniently be conducted by the Court through its ordinary officers; or
- (c) if the question in dispute consists wholly or in part of matters of account,

the High Court may at any time order the whole cause or matter or any question or issue of fact arising therein to be tried before a special referee or arbitrator respectively agreed on by the parties or before an officer of the Court.

(3) (a) In all cases of reference to a special referee or arbitrator under an order of the High Court in any cause or matter, the special referee or arbitrator shall be deemed to be an officer of the Court and shall have such authority and shall conduct the reference in such manner as is prescribed by rules of court, and subject thereto as the High Court may direct.

(b) The report or award of any special referee or arbitrator on any such reference shall, unless set aside by the High Court, be equivalent to the decree, judgment or order of the Court.

(c) The remuneration to be paid to any special referee or arbitrator to whom any matter is referred under order of the High Court shall be determined by the Court.

(4) The High Court shall, as to references under order of the Court, have all the powers which are by the Arbitration Act, 1952, conferred on the High Court as to references by consent out of court. *Act 93.*

25. (1) Without prejudice to the generality of Article 121 of the Constitution the High Court shall in the exercise of its jurisdiction have all the powers which were vested in it immediately prior to Malaysia Day and such other powers as may be vested in it by any written law in force within its local jurisdiction. *Powers of the High Court.*

(2) Without prejudice to the generality of subsection (1) the High Court shall have the additional powers set out in the Schedule:

Provided that all such powers shall be exercised in accordance with any written law or rules of court relating to the same.

Appellate Jurisdiction

26. The appellate criminal jurisdiction of the High Court shall consist of the hearing of appeals from subordinate courts according to any law for the time being in force within the territorial jurisdiction of the High Court. *Appellate criminal jurisdiction.*

27. The appellate civil jurisdiction of the High Court shall consist of the hearing of appeals from subordinate courts as hereinafter provided. *Appellate civil jurisdiction.*

28. (1) Subject to this or any other written law, an appeal shall lie to the High Court from a decision of a subordinate court in any civil cause or matter where the amount in dispute or the value of the subject-matter exceeds one hundred dollars. *Civil appeals from subordinate courts.*

(2) An appeal shall lie from any decision of a subordinate court in any proceedings relating to maintenance of wives or children, irrespective of the amount involved. *Sub. Act A 279/75*

29. All civil appeals from a subordinate court shall be by way of re-hearing, and the High Court shall have the like powers and jurisdiction on the hearing of appeals as the Federal Court has on the hearing of appeals from the High Court. *Civil appeals to be by way of re-hearing.*

Reference of constitutional question by subordinate court.

30. (1) Where in any proceedings in any subordinate court any question arises as to the effect of any provision of the Constitution the presiding officer of the court may stay the proceedings and may transmit the record thereof to the High Court.

(2) Any record of proceedings transmitted to the High Court under this section shall be examined by a Judge of the Court and where the Judge considers that the decision of a question as to the effect of a provision of the Constitution is necessary for the determination of the proceedings he shall deal with the case in accordance with section 48 as if it were a case before him in the original jurisdiction of the High Court in which the question had arisen.

(3) Subsections (1) and (2) shall be deemed to be rules of court for the purposes of Article 128 (2) of the Constitution.

Revision

Revision of criminal proceedings of subordinate courts.

31. The High Court may exercise powers of revision in respect of criminal proceedings and matters in subordinate courts in accordance with any law for the time being in force relating to criminal procedure.

Power of High Court to call for records of civil proceedings in subordinate courts.

32. The High Court may call for and examine the record of any civil proceedings before any subordinate court for the purpose of satisfying itself as to the correctness, legality or propriety of any decision recorded or passed, and as to the regularity of any proceedings of any such subordinate court.

Powers of High Court on revision of civil proceedings.

33. In the case of any civil proceedings in a subordinate court the record of which has been called for, or which otherwise comes to its knowledge, the High Court may give such orders thereon, either by directing a new trial or otherwise, as seems necessary to secure that substantial justice is done.

No revision at instance of party who could have appealed.

34. Where an appeal lies from any decision in any civil matter, and no appeal is brought, no proceeding by way of revision shall be entertained at the instance of a party who could have appealed.

General supervisory and revisionary jurisdiction of High Court.

35. (1) In addition to the powers conferred on the High Court by this or any other written law, the High Court shall have general supervisory and revisionary jurisdiction over all subordinate courts, and may in particular, but without prejudice to the generality of the foregoing provision, if

it appears desirable in the interests of justice, either of its own motion or at the instance of any party or person interested, at any stage in any matter or proceeding, whether civil or criminal, in any subordinate court, call for the record thereof, and may remove the same into the High Court or may give to the subordinate court such directions as to the further conduct of the same as justice may require.

(2) Upon the High Court calling for any record as aforesaid all proceedings in the subordinate court in the matter or proceeding in question shall be stayed pending further order of the High Court.

36. Subject to any written law for the time being in force no party shall have any right to be heard before the High Court when exercising its powers of revision and supervision:

Discretion of Court as to hearing parties.

Provided that no final order shall be made to the prejudice of any person unless the person has had an opportunity of being so heard.

37. Where in any criminal proceeding before a subordinate court in the States of Malaya a sentence has been passed by the court in exercise of the special powers of punishment conferred by section 64 (2) or by section 87 (2) (as the case may be) of the Subordinate Courts Act, 1948, and no notice of appeal has been lodged against the sentence according to the law for the time being in force relating to criminal procedure, the subordinate court shall transmit the record of the proceeding to the High Court so that the High Court may satisfy itself as to the correctness, legality or propriety of the sentence, and the High Court may thereupon exercise the powers conferred upon it by section 31.

Special provision as to States of Malaya.

Act 92.

PART III THE FEDERAL COURT

General

38. (1) Subject as hereinafter provided, every proceeding in the Federal Court shall be heard and disposed of by three Judges or such greater uneven number of Judges as the Lord President may in any particular case determine.

Composition of the Federal Court.

(2) In the absence of the Lord President the senior member of the Court shall preside.

Sittings of the Court.

39. (1) The Court shall sit on such dates and at such places as the Lord President may from time to time appoint:

Provided that the Lord President may, when he deems it expedient, direct that any appeal be heard at any time and in any place in Malaysia.

(2) The Lord President may cancel or postpone any sitting of the Court which has been appointed under subsection (1).

Vacations.

40. The Lord President may make rules as to vacations of the Federal Court not exceeding one month in any calendar year.

Proceedings how decided.

41. Proceedings shall be decided in accordance with the opinion of the majority of the Judges composing the Court.

Continuation of proceedings notwithstanding absence of Judge.

42. (1) If, in the course of any proceeding, or, in the case of a reserved judgment, at any time before delivery of the judgment, any Judge of the Court hearing the proceeding is unable, through illness or any other cause, to attend the proceeding or otherwise exercise his functions as a Judge of that Court, the hearing of the proceeding shall, if the parties consent, continue before, and judgment or reserved judgment, as the case may be, shall be given by, the remaining Judges of the Court, not being less than two, and the Court shall, for the purposes of the proceeding, be deemed to be duly constituted notwithstanding the absence or inability to act of the Judge as aforesaid.

(2) In any such case as is mentioned in subsection (1) the proceeding shall be determined in accordance with the opinion of the majority of the remaining Judges of the Court, and, if there is no majority the proceeding shall be re-heard.

(3) If the parties do not consent as aforesaid the appeal shall be re-heard.

Applications.

43. Wherever application may be made either to the High Court or to the Federal Court, it shall be made in the first instance to the High Court.

Incidental directions and interim orders.

44. (1) In any proceeding pending before the Federal Court any direction incidental thereto not involving the decision of the proceeding, any interim order to prevent prejudice to the claims of parties pending the hearing of the proceeding, any order for security for costs, and for the dismissal of a proceeding for default in furnishing security so ordered may at any time be made by a Judge of the Federal Court.

(2) Every application under subsection (1) shall be deemed to be a proceeding in the Federal Court.

(3) Every order so made may be discharged or varied by the full Court.

Original Jurisdiction

45. Save as hereinafter in this Act provided the Federal Court for the purposes of its jurisdiction under Article 128 (1) and (2) of the Constitution (herein called the "original jurisdiction") shall have the same jurisdiction and may exercise the same powers as are had and may be exercised by the High Court.

Jurisdiction
and powers.

46. The Federal Court in the exercise of its original jurisdiction under Article 128 (1) (b) of the Constitution in respect of a dispute between States or between the Federation and any State shall not pronounce any judgment other than a declaratory judgment.

Judgment
to be
declaratory.

47. The Federal Court shall not make any order as to the costs of any proceeding had under its original jurisdiction:

Costs.

Provided that in any proceedings under section 48 the High Court may make any order as to costs in respect of proceedings in the Federal Court.

48. (1) Where in any proceedings in the High Court a question arises as to the effect of any provision of the Constitution the Judge hearing the proceedings may stay the same on such terms as may be just to await the decision of the question by the Federal Court.

Reference
of constitu-
tional
question by
High Court.

(2) An order staying proceedings under this section may be made by the Judge of his own motion or on the application of any party and shall be made at such stage of the proceedings as the Judge may see fit having regard to the decision of such questions of fact as may be necessary to be settled to assist the Federal Court in deciding the question which has arisen and to the speedy and economical final determination of the proceedings.

(3) Where an order for stay of proceedings has been made under this section the Judge shall state the question which in his opinion has arisen as to the effect of the Constitution in the form of a special case which so far as may be possible shall state the said question in a form which shall permit of an answer being given in the affirmative or the negative.

(4) Where a Judge shall have stated a special case under this section the same shall be transmitted to the Federal Court in accordance with the rules of court of the Federal Court.

Proceedings in Federal Court.

49. (1) Where a special case has been transmitted to the Federal Court under section 48 the Federal Court shall, subject to any rules of court of the Federal Court, deal with the case and hear and determine it in the same way as an appeal to the Federal Court.

(2) When the Federal Court shall have determined any special case under this section the High Court in which the proceedings in the course of which the case has been stated are pending shall continue and dispose of the proceedings in accordance with the judgment of the Federal Court and otherwise according to law.

Appellate Jurisdiction—Criminal Appeals

Sub Act 1328
Jurisdiction to hear and determine criminal appeals.

50. (1) The Federal Court shall have jurisdiction to hear and determine any appeal by a person convicted by the High Court in the exercise of its original criminal jurisdiction, subject nevertheless to this or any other written law regulating the terms and conditions upon which criminal appeals may be brought.

(2) An appeal by a person convicted shall be either against the conviction or against the sentence or against both:

Provided that where an accused person has pleaded guilty and been convicted on the plea there shall be no appeal except as to the extent or legality of the sentence.

(2A) (3) An appeal may lie on a question of fact or a question of law or on a question of mixed fact and law.

ll 1328

(4) The Federal Court shall also have jurisdiction to hear and determine matters brought before it in accordance with sections 64, 65 or 66.

Notice of appeal.

51. (1) Every appeal shall be by notice in writing which shall be filed with the Registrar of the High Court at the place where the decision appealed against was given within fourteen days after the date of the decision.

(2) Every notice of appeal shall state shortly the substance of the judgment appealed against, shall contain an address at which any notices or documents connected

with the appeal may be served upon the appellant or upon his advocate, and, except where the notice of appeal is given orally under section 54, shall be signed by the appellant or his advocate.

52. (1) When a notice of appeal has been filed the Judge by whom the ~~appellant was convicted~~ shall, if he has not already written his judgment, record in writing the grounds of his decision, and the written judgment or grounds of decision shall form part of the record of the proceedings:

Record of proceedings.
A decision was given A 328

Provided that—

- (i) in all cases tried by a jury or with assessors a note (verbatim if one is available) of any charge or summing-up of the Judge of the trial Court shall be included in and form part of the record of the proceedings in lieu of the written judgment or grounds of decision; and
- (ii) if, in any particular case referred to in proviso (i), the trial Judge considers that a written judgment or the grounds of his decision would be of assistance to the Federal Court, or if the Federal Court so direct, the written judgment or grounds of decision shall be furnished and shall form part of the record of the proceedings in addition to the charge or summing-up.

(2) As soon as possible after notice of appeal has been filed the Registrar shall cause to be served on the appellant or his advocate at his address for service specified under section 51 (2) a notice that a copy of the record is available and can be had on applying for the same on payment of the prescribed fee: *provided - - - - -*

A 328

53. (1) Within ten days after service of the notice referred to in section 52 (2) the appellant shall file with the Registrar of the High Court a petition of appeal and five copies thereof addressed to the Federal Court.

Petition of appeal.

(2) Every petition of appeal shall be signed by the appellant or his advocate and shall contain particulars of the matters of law or of fact in regard to which the trial Court is alleged to have erred, and, except by leave of the Federal Court, the appellant shall not be permitted on the hearing of the appeal to rely on any ground of appeal other than those set forth in the petition.

Public Prosecutions
of Botswana

(3) If a petition is not filed within the time prescribed by this section the appeal shall be deemed to have been withdrawn, but nothing in this subsection shall be deemed to limit or restrict the powers of extending time conferred upon the Federal Court by section 56.

Procedure where appellant in prison.

54. (1) If the appellant is in prison he shall be deemed to have complied with the requirements of sections 51 and 53 if he gives to the officer in charge of the prison either orally or in writing notice of appeal and the particulars required to be included in the petition of appeal within the times prescribed by those sections.

(2) The prison officer aforesaid shall forthwith forward the notice and petition or the purport thereof to the Registrar of the High Court at the place where the decision appealed against was given.

Transmission of papers to Federal Court.

55. (1) When an appellant has complied with sections 51 and 53 the Registrar of the High Court shall forthwith transmit to the Federal Court four copies of the record of the proceedings in the case, together with four copies of the notice of appeal and of the petition of appeal.

*Respondent or his advocate
A 328*

(2) The Registrar of the High Court shall also furnish the ~~Public Prosecutor~~ with a copy of the record of the proceedings in the case and a copy of the notice of appeal and of the petition of appeal.

Appeals out of time and formal defects.

56. The Federal Court may in its discretion, on the application of any person desirous of appealing who may be debarred from so doing by reason of his not having observed some formality or some requirement of this Act, permit an appeal upon such terms and with such directions as it may consider desirable in order that substantial justice may be done in the matter, and may, for the purpose, enlarge any period of time prescribed by section 51 or section 53.

A 328

Appeal not to operate as stay of execution.

56A
57. (1) Except in the cases mentioned in subsection (3), no appeal shall operate as a stay of execution, but the trial Court or the Federal Court may stay execution on any judgment, order, conviction, or sentence pending appeal on such terms as to security for the payment of any money or the performance or non-performance of any act or the suffering of any punishment ordered by or in the judgment, order, conviction, or sentence as to the Court may seem reasonable.

omit Section 56A

(2) If the appellant is ultimately sentenced to imprisonment, the time during which the execution of the sentence was stayed shall be excluded in computing the term of his sentence unless the Federal Court otherwise orders.

(3) In the case of a conviction involving sentence of death or corporal punishment—

(a) the sentence shall not in any case be executed until after the expiration of the time within which notice of appeal may be given under section 51, or any extension of time which may be permitted under section 56; and

(b) if notice is so given the sentence shall not be executed until after the determination of the appeal.

58. Where the grounds of appeal do not raise any question of law and it appears to the Lord President and two other Judges of the Federal Court that the evidence is sufficient to support the conviction and that there is no material in the circumstances of the case which could raise a reasonable doubt whether the conviction was right or lead the Federal Court to consider that the sentence ought to be reduced, the appeal may, without being set down for hearing, be summarily rejected by an order under the hand of the Lord President, certifying that the said Judges, having perused the record, are satisfied that the appeal has been brought without any sufficient ground of complaint and notice of the rejection shall be served upon the appellant:

Summary
rejection
of appeal.

Provided that—

(i) if, in any case rejected under this section, the appellant gives, within seven days of service of notice of rejection upon him, notice to the Registrar of the Federal Court of application for leave to amend his grounds of appeal so as to raise a question of law, accompanied by a certificate signed by an advocate specifying the question to be raised and undertaking to argue it, the Federal Court may grant leave to amend accordingly and shall restore the appeal for hearing; and

(ii) for the purposes of this section, the question whether a sentence ought to be reduced shall be deemed not to be a question of law.

59. If the Federal Court does not reject the appeal summarily, it shall cause notice to be given to the appellant or his advocate and to the Public Prosecutor of the time and place at which the appeal will be heard.

Notice and
time of
hearing.

Order 11528

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Powers of
Federal
Court.

60. (1) At the hearing of an appeal the Federal Court shall hear the appellant or his advocate, if he appears, and, if it thinks fit, the respondent or his advocate, if he appears, and may hear the appellant or his advocate in reply, and the Federal Court may thereupon confirm, reverse or vary the decision of the trial court, or may order a retrial or may remit the matter with the opinion of the Federal Court thereon to the trial court, or may make such other order in the matter as to it may seem just, and may by that order exercise any power which the trial court might have exercised:

Provided that the Federal Court may, notwithstanding that it is of opinion that the point raised in the appeal might be decided in favour of the appellant, dismiss the appeal if it considers that no substantial miscarriage of justice has occurred.

(2) At the hearing of an appeal the Federal Court may, if it thinks that a different sentence should have been passed, quash the sentence passed by the trial court and pass such other sentence warranted in law (whether more or less severe) in substitution therefor as it thinks ought to have been passed.

(3) The Federal Court shall in no case make any order under this section as to payment of costs of any appeal to or by the appellant or respondent.

Additional
evidence.

61. (1) In dealing with any appeal in a criminal case the Federal Court may, if it thinks additional evidence to be necessary, either take such evidence itself or direct it to be taken by the trial court.

(2) When the additional evidence is taken by the trial court, it shall certify the evidence, with a statement of its opinion on the case considered with regard to the additional evidence, to the Federal Court, and the Federal Court shall thereupon proceed to dispose of the appeal.

(3) The parties to the appeal shall be present when additional evidence is taken, but the evidence shall not be taken in the presence of a jury or assessors.

(4) In dealing with any appeal in a criminal case the Federal Court may also, if it thinks fit, call for and receive from the trial court a report of any matter connected with the trial.

62. (1) On the termination of the hearing of an appeal the Federal Court shall, either at once or on some future day which shall either then be appointed for the purpose or of which notice shall subsequently be given to the parties, deliver judgment in open court. Judgment.

(2) In criminal appeals and matters the Federal Court shall ordinarily give only one judgment, which may be pronounced by the Lord President or by such other member of the Federal Court as the Lord President may direct:

Provided that separate judgments shall be delivered if the Lord President so determines.

(3) The judgment of any member of the Federal Court who is absent may be read by any other Judge.

63. (1) Whenever a criminal case is decided on appeal, the Federal Court shall certify its judgment or order to the trial court. Judgment to be certified to trial court.

(2) The trial court shall thereupon make such orders as are conformable to the judgment or order of the Federal Court, and, if necessary, the record shall be amended in accordance therewith.

(3) Upon the withdrawal or discontinuance of any appeal the Registrar of the Federal Court shall notify the trial court accordingly and, if any stay of execution has been granted, the sentence or order of the trial court shall forthwith be enforced, but nothing in this subsection shall be deemed to limit or restrict the powers of extending time conferred upon the Federal Court by section 56.

64. (1) ~~When any person has been acquitted in a trial before the High Court in the exercise of its original criminal jurisdiction and the Public Prosecutor has, within one month from the date of the acquittal or such further time as the Federal Court may permit, signed and filed with the Registrar of the Federal Court a certificate that the determination of the trial involved a question of law which it is desirable to have determined by the Federal Court, the Federal Court shall review the case or such part of it as may be necessary and shall deliver a declaratory judgment thereon.~~ *Repealed by A 328* Reference of point of law to Federal Court in case of acquittal by High Court.

(2) A declaratory judgment of the Federal Court under subsection (1) shall not operate to reverse an order of acquittal, but it shall thereafter be binding upon all other courts in Malaysia in the same manner as an ordinary judgment of the Federal Court.

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(3) The powers conferred upon the Public Prosecutor by this section shall be exercisable by that officer only.

Point reserved on trial for Federal Court.

65. (1) When any person has in a trial before the High Court in the exercise of its original criminal jurisdiction been convicted of an offence, the Judge may, if he thinks fit, reserve for the decision of the Federal Court any question of law which has arisen in the course of the trial of that person and the determination of which would affect the event of the trial.

(2) The person so convicted shall thereupon be remanded to prison or, if the Judge thinks fit, be admitted to bail.

(3) The Federal Court shall review the case, or such part of it as may be necessary, and finally determine the question and thereupon may alter the sentence passed and pass such sentence or give or make such judgment or order as the Federal Court thinks fit.

Reference to Federal Court on appeal from subordinate court.

Act A 328

66. (1) When an appeal from a decision of a subordinate court in a criminal matter has been determined by the High Court the Judge may on the application of any party and shall on the application of the Public Prosecutor reserve for the decision of the Federal Court any question of law of public interest which has arisen in the course of the appeal and the determination of which by the Judge has affected the event of the appeal.

(2) An application under this section shall be made within one month or such longer time as the Federal Court may permit of the determination of the appeal to which it relates and in the case of an application by the Public Prosecutor shall be made by or with the consent in writing of that officer only.

(3) When a question has been reserved under this section the Judge who has reserved the same may make such orders as he may see fit for the arrest, custody or release on bail of any party to the appeal.

(4) When a question has been reserved under this section the Registrar of the High Court shall forward the record of the proceedings in the High Court to the Chief Registrar who shall thereupon appoint and notify to the parties to the appeal the time and place for the hearing of the matter.

(5) The Federal Court shall hear and determine the question reserved and may make such orders as the High

Court might have made as it may consider just for the disposal of the appeal.

(6) For the purposes of this section but without prejudice to the generality of its provisions—

(a) any question of law regarding which there is a conflict of judicial authority shall be deemed to be a question of public interest; and

(b) the reservation of a question of law for the consideration of the High Court under any law relating to criminal procedure or the exercise by the High Court of any power of revision under any such law shall be deemed to be an appeal from a decision of a subordinate court in a criminal matter.

other than a Court

Appellate Jurisdiction—Civil Appeals

67. (1) The Federal Court shall have jurisdiction to hear and determine appeals from any judgment or order of any High Court in any civil matter, whether made in the exercise of its original or of its appellate jurisdiction, subject nevertheless to this or any other written law regulating the terms and conditions upon which such appeals shall be brought.

Jurisdiction to hear and determine civil appeals.

(2) The Federal Court shall have all the powers conferred by section 24A on the High Court under the provisions relating to references under order of the High Court.

68. (1) No appeal shall be brought to the Federal Court in any of the following cases:

Non-appealable matters.

(a) when the amount or value of the subject-matter at the trial is less than five hundred dollars, except with the leave of the Federal Court or a Judge of the High Court;

*[Am. AA 279.]
two thousand
(Act. A 279/75)
ringgit
Act 160*

(b) where the judgment or order is made by consent of parties;

(c) where the judgment or order relates to costs only, which by law are left to the discretion of the Court, except with the leave of the Federal Court or a Judge of the High Court; and

(d) where, by any written law for the time being in force, the judgment or order of the High Court is expressly declared to be final.

(2) No appeal shall lie from an interlocutory order made by a Judge of the High Court in Chambers unless the Judge has certified, after application, within four days after the making of the order by any party for further argument in court, that he requires no further argument, or unless leave is obtained from the Federal Court or from a Judge of the High Court.

(3) No appeal shall lie from a decision of a Judge in Chambers in a summary way on an interpleader summons, where the facts are not in dispute, except by leave of the Federal Court or a Judge of the High Court, but an appeal shall lie from a judgment given in court on the trial of an interpleader issue.

Hearing of
appeals.

69. (1) Appeals to the Federal Court shall be by way of re-hearing, and in relation to such appeals the Federal Court shall have all the powers and duties, as to amendment or otherwise, of the High Court, together with full discretionary power to receive further evidence by oral examination in court, by affidavit, or by deposition taken before an examiner or commissioner.

(2) The further evidence may be given without leave on interlocutory applications, or in any case as to matters which have occurred after the date of the decision from which the appeal is brought.

(3) Upon appeals from a judgment, after trial or hearing of any cause or matter upon the merits, the further evidence, save as to matters subsequent as aforesaid, shall be admitted on special grounds only, and not without leave of the Federal Court.

(4) The Federal Court may draw inferences of fact, and give any judgment, and make any order which ought to have been given or made, and make such further or other orders as the case requires.

(5) The powers aforesaid may be exercised notwithstanding that the notice of appeal relates only to part of the decision, and the powers may also be exercised in favour of all or any of the respondents or parties, although the respondents or parties have not appealed from or complained of the decision.

Costs of
appeal.

70. The Federal Court may make such order as to the whole or any part of the costs of appeal or in the court below as is just.

71. (1) Except as hereinafter provided the Federal Court shall have power to order that a new trial be had of any cause or matter tried by the High Court in the exercise of its original or appellate jurisdiction. New trial.

(2) A new trial shall not be granted on the ground of improper admission or rejection of evidence unless in the opinion of the Federal Court some substantial wrong or miscarriage of justice has been thereby occasioned; and if it appears to the Federal Court that the wrong or miscarriage affects part only of the matters in controversy, or some or one only of the parties, the Federal Court may give final judgment as to part thereof, or as to some or one only of the parties, and direct a new trial as to the other part only, or as to the other party or parties.

(3) A new trial may be ordered on any question without interfering with the findings or decision of the court below upon any other question.

72. No judgment or order of the High Court, or of any Judge, shall be reversed or substantially varied on appeal, nor a new trial ordered by the Federal Court, on account of any error, defect, or irregularity, whether in the decision or otherwise, not affecting the merits or the jurisdiction of the Court. Immaterial errors.

73. An appeal shall not operate as a stay of execution or of proceedings under the decision appealed from unless the court below or the Federal Court so orders and no intermediate act or proceeding shall be invalidated except so far as the Federal Court may direct. Appeal not to operate as stay of execution.

PART. IV

APPEALS TO THE YANG DI-PERTUAN AGONG

74. (1) Subject to any enactments or rules regulating the proceedings of the Judicial Committee in respect of appeals from the Federal Court, an appeal shall lie from the Federal Court to the Yang di-Pertuan Agong with the leave of the Federal Court granted in accordance with section 75—

(a) from any final judgment or order in any civil matter where—

(i) the matter in dispute in the appeal amounts to or is of the value of twenty-five thousand dollars or upwards;

might

(ii) the appeal involves, directly or indirectly, some claim or question to or respecting property or some civil right of like amount or value; or

A 328

(iii) the case is from its nature a fit one for appeal; *and*

(b) from any interlocutory judgment or order which the Federal Court considers a fit one for appeal; ~~and~~

*dl. A 328
pa(B) 489/77*

~~(e) from any decision as to the effect of any provision of the Constitution, including any opinion pronounced on a reference under Article 130 thereof.~~

(2) An appeal shall also lie from the Federal Court to the Yang di-Pertuan Agong in the following cases:

A 328

(a) in any case mentioned in subsection (1) where the leave of the Federal Court has not been duly obtained; *and*

(b) in any case arising in a civil matter other than the cases referred to in subsection (1); ~~and~~

*U A 328 w.e.f. 1.1.78
pa(B) 489/77*

~~(c) in any criminal matter,~~

where application for special leave to appeal has been made to the Yang di-Pertuan Agong, and the Yang di-Pertuan Agong, acting on the recommendation of the Judicial Committee, has granted special leave to appeal.

A 328

Leave to appeal.

③④

75. (1) Application under section 74 (1) for leave to appeal to the Yang di-Pertuan Agong shall be made to the Federal Court within six weeks from the date on which the decision appealed against was given, or within such further time as may be allowed by that Court.

(2) Where the judgment appealed from requires the appellant to pay money or perform a duty, the Federal Court shall have power, when granting leave to appeal, either to direct that the judgment shall be carried into execution or that the execution thereof shall be suspended pending the appeal, as to the Court shall seem just; and in case the Court shall direct the judgment to be carried into execution, the person in whose favour it was given shall, before the execution thereof, enter into good and sufficient security, to the satisfaction of that Court, for the due performance of the order as the Yang di-Pertuan Agong, on receiving the report or recommendation of the Judicial Committee, may make in order to give effect thereto.

76. (1) On any appeal or application for special leave to appeal under this Act, the Yang di-Pertuan Agong, on receiving from Her Majesty's Government in the United Kingdom the report or recommendation of the Judicial Committee in respect thereof, shall make such order as may be necessary to give effect thereto.

Orders of
Yang di-
Pertuan
Agong.

(2) Without prejudice to the generality of subsection (1), the order may—

(a) direct that such witnesses shall be examined or re-examined as to such facts as may be specified in the order, notwithstanding that any such witness may not have been examined or no evidence may have been given on any such facts in a previous stage of the matter;

(b) direct that the matter which is the subject of the appeal be remitted to the Federal Court and that the Court re-hear the matter in such form and either generally or upon certain points only and upon the hearing take such additional evidence though before rejected or reject such evidence before admitted as the Yang di-Pertuan Agong shall on the recommendation of the Judicial Committee direct; or

(c) direct that a new trial be held either generally or as to certain points only.

77. Any person who desires to enforce or obtain execution of any order of the Yang di-Pertuan Agong shall file in the Federal Court a certified copy of the order which shall be enforced or executed in the same way as is enforced or executed a judgment of the Federal Court.

Procedure
to enforce
order of the
Yang di-
Pertuan
Agong.

78. The costs incurred in the prosecution of any appeal or application for leave to appeal under this Part shall be paid by such party or parties, person or persons as the Yang di-Pertuan Agong may, on the recommendation of the Judicial Committee, by order direct and the amount of any such costs so far as the same relates to costs incurred in England shall be specified in the order and so far as the same relates to costs incurred in Malaysia shall be taxed by the Registrar of the Federal Court in accordance with the rules of court.

Costs.

Power to provide that appeals shall be lodged in the Registry of the Judicial Committee.

79. The Yang di-Pertuan Agong may by order provide that every appeal and every application for leave to appeal shall be lodged, and all other steps incidental to the appeal or application (except steps which fall to be taken in the Federal Court) shall be taken by the parties in the Registry of the Judicial Committee.

SCHEDULE

(Section 25 (2))

ADDITIONAL POWERS OF HIGH COURT

- | | |
|---------------------------|---|
| Prerogative writs. | 1. Power to issue to any person or authority directions, orders or writs, including writs of the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any others, for the enforcement of the rights conferred by Part II of the Constitution, or any of them, or for any purpose. |
| Distress for rent. | 2. Power to issue and enforce writs or warrants of distress for arrears of rent. |
| Partition of land. | 3. Power to direct a sale instead of partition in any action for partition of land; and in any cause or matter relating to land, where it appears necessary or expedient, to order the land or any part thereof to be sold, and to give all necessary and consequential directions. |
| Sale of land. | 4. Power to order land to be charged or mortgaged, as the case may be, in any case in which there is jurisdiction to order a sale. |
| Interpleader. | 5. Power to grant relief by way of interpleader—
(a) where the person seeking relief is under liability for any debt, money, or goods or chattels, for or in respect of which he has been, or expects to be, sued by two or more parties making adverse claims thereon; and
(b) where a Sheriff, bailiff or other officer of court is charged with the execution of process of court, and claim is made to any money or goods or chattels taken or intended to be taken in execution under any process, or to the proceeds or value of any such goods or chattels by any person other than the person against whom the process is issued,
and to order the sale of any property subject to interpleader proceedings. |
| Preservation of property. | 6. Power to provide for the interim preservation of property the subject-matter of any cause or matter by sale or by injunction or the appointment of a receiver or the registration of a caveat or a lis pendens or in any other manner whatsoever. |
| Interest. | 7. Power to direct interest to be paid on debts, including judgment debts, or on sums found due on taking accounts between parties, or on sums found due and unpaid by receivers or other persons liable to account to the Court. |

8. Power to enlarge or abridge the time prescribed by any written law for doing any act or taking any proceeding, although any application therefor be not made until after the expiration of the time prescribed: Time.

Provided that this provision shall be without prejudice to any written law relating to limitation.

9. Power to enforce judgment of the Court for the payment of money to any person or into Court by a writ, to be called a writ of seizure and sale, under which all the property, movable or immovable, of whatever description, of a judgment debtor may be seized, except property which is exempt from seizure and sale under any written law. Writs of seizure and sale.

10. Power to enforce a judgment of the Court in any other manner which may be prescribed by any written law or rules of court. Other execution.

11. Power to dismiss or stay proceedings where the matter in question is res judicata between the parties, or where by reason of multiplicity of proceedings in any court or courts the proceedings ought not to be continued. Res judicata.

12. Power to transfer any proceedings to any other Court or to or from any subordinate court, and in the case of transfer to or from a subordinate court to give any directions as to the further conduct thereof: Transfer of proceedings.

Provided that this power shall be exercised in such manner as may be prescribed by any rules of court.

13. Power to allow a defence of set-off. Set-off.

14. Power to order discovery of facts or documents by any party or person in such manner as may be prescribed by rules of court. Discovery and interrogatories.

15. Power to award costs. Costs.

16. Power to execute, or direct any of its officers to execute, any transfer, conveyance, assignment, contract or other document, including an endorsement on a negotiable instrument, which any person has been ordered by the Court to execute, if he has neglected or refused to execute the same or is out of the jurisdiction, and the same shall operate to all intents as if executed by that person. Execution of documents.

17. Power to restrain any person who has habitually and persistently and without reasonable cause instituted vexatious legal proceedings in any court, whether against the same or different persons, from instituting any legal proceedings in any court save by leave of a Judge. A copy of any such order shall be published in the *Gazette*. Vexatious litigants.

LAWS OF MALAYSIA

Act 91

COURTS OF JUDICATURE ACT, 1964

(Revised—1972)

Particulars under section 7 (ii) and (iii) of the Revision of Laws Act, 1968 (Act 1)

LIST OF AMENDMENTS

Amending law		Short title	In force from
Act 35/1964 ...	...	Courts of Judicature (Amendment) Act, 1964	16-3-1964
P.U. 400/1966 ...	...	Modification of Laws (Courts of Judicature) Order, 1966	3-11-1966
Ord. 14/1969 (P.U. (A) 521/1969)		Emergency (Essential Powers) Ordinance No. 14, 1969	19-12-1969
P.U. (A) 7/1970 ...	...	Corrigendum to Ordinance 14/1969	9-1-1970
Act A33 ...	...	Courts (Amendment) Act, 1971	30-4-1971
Act A63 ...	...	Courts of Judicature (Amendment) Act, 1971	31-8-1971
Act A126 ...	...	Courts of Judicature (Amendment) Act, 1972	1-11-1972

(NOTE—Act 7 of 1964 ceased to apply to Singapore as from 9-1-1970 on the coming into force of Singapore Supreme Court of Judicature Act, 1969 (Act No. 24 of 1969)).

LIST OF LAWS OR PARTS THEREOF SUPERSEDED

No.		Title
Act 7 of 1964 ...	...	Courts of Judicature Act, 1964
P.U. 77 of 1967 ...	...	Modification of Laws (Courts) (Protection of Judges) (Extension) Order, 1967.

KUALA LUMPUR
DICETAK OLEH PENCETAK KERAJAAN DAN DITERBITKAN DENGAN PERINTAH PADA
12HB OKTOBER, 1972

Harga: \$1.50

Commissioner of Law Revision
Malaysia