



**THE REPUBLIC OF KENYA**

LAWS OF KENYA

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**THE JUDICATURE ACT**

CAP. 8

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Kenya

## Judicature Act

Cap. 8

Legislation as at 11 December 2023

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# JUDICATURE ACT

## CAP. 8

Assented to on 4 July 1967

Commenced on 1 August 1967 by [Judicature Act Commencement](#)

- [Amended by [Statute Law \(Miscellaneous Amendments\) Act, 1968 \(Act No. 8 of 1968\)](#) on 16 February 1968]  
[Amended by [Judicature \(Amendment\) Act, 1975 \(Act No. 4 of 1975\)](#) on 4 April 1975]  
[Amended by [Statute Law \(Miscellaneous Amendments\) Act, 1976 \(Act No. 6 of 1976\)](#) on 4 June 1976]  
[Amended by [Statute Law \(Miscellaneous Amendments\) \(Court of Appeal\) Act, 1977 \(Act No. 14 of 1977\)](#) on 28 October 1977]  
[Amended by [Statute Law \(Miscellaneous Amendments\) \(Act No. 6 of 1979\)](#) on 11 May 1979]  
[Amended by [Laws of Kenya \(Rectification\) \(No.2\) Order, 1980 \(Legal Notice 162 of 1980\)](#) on 17 October 1980]  
[Amended by [Statute Law \(Miscellaneous Amendments\) \(No. 2\) Act, 1981 \(Act No. 12 of 1981\)](#) on 4 December 1981]  
[Amended by [Statute Law \(Miscellaneous Amendments\) Act, 1982 \(Act No. 19 of 1982\)](#) on 24 December 1982]  
[Amended by [Justices of the Peace \(Repeal\) Act, 1983 \(Act No. 10 of 1983\)](#) on 9 December 1983]  
[Amended by [Laws of Kenya \(Rectification\) \(No. 2\) Order, 1984 \(Legal Notice 65 of 1984\)](#) on 11 May 1984]  
[Amended by [Statute Law \(Miscellaneous Amendments\) \(No. 2\) Act, 1984 \(Act No. 19 of 1984\)](#) on 28 December 1984]  
[Amended by [Statute Law \(Repeals and Miscellaneous Amendments\) Act, 1997 \(Act No. 10 of 1997\)](#) on 7 November 1997]  
[Amended by [Statute Law \(Miscellaneous Amendments\) Act, 2007 \(Act No. 7 of 2007\)](#) on 15 October 2007]  
[Amended by [Judicature \(Amendment\) Act, 2012 \(Act No. 10a of 2012\)](#) on 15 June 2012]  
[Amended by [High Court \(Organization and Administration\) Act \(Cap. 8C\)](#) on 2 January 2016]  
[Amended by [Contempt of Court Act \(Cap. 8F\)](#) on 13 January 2017]  
[Amended by [Statute Law \(Miscellaneous Amendments\) Act, 2017 \(Act No. 11 of 2017\)](#) on 4 May 2017]  
[Amended by [Statute Law \(Miscellaneous Amendments\) Act, 2018 \(Act No. 18 of 2018\)](#) on 18 January 2019]  
[Revised by [24th Annual Supplement \(Legal Notice 221 of 2023\)](#) on 31 December 2022]  
[Amended by [Statute Law \(Miscellaneous Amendment\) Act, 2023 \(Act No. 19 of 2023\)](#) on 11 December 2023]

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

### 1. Short title

This Act may be cited as the Judicature Act.

### 2. Interpretation

In this Act—

"Employment and Labour Relations Court" means the Employment and Labour Relations Court established by the Employment and Labour Relations Court Act ([Cap. 8E](#));

"Environment and Land Court" means the Environment and Land Court established by the Environment and Land Court Act ([Cap. 8D](#));

"Judge" means the Chief Justice or any other judge appointed under Article 166 of the Constitution.

[Act [No. 14 of 1977](#), Sch., Act No. 10A of 2012, s. 2, Act [No. 18 of 2018](#), Sch.]

### 3. Mode of exercise of jurisdiction

- (1) The jurisdiction of the Supreme Court, the Court of Appeal, the High Court, the Environment and Land Court, the Employment and Labour Relations Court and of all subordinate courts shall be exercised in conformity with—
  - (a) the Constitution;
  - (b) subject thereto, all other written laws, including the Acts of Parliament of the United Kingdom cited in Part I of the Schedule to this Act, modified in accordance with Part II of that Schedule;
  - (c) subject thereto and so far as those written laws 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 Supreme Court, the Court of Appeal, the High Court, the Environment and Land Court, the Employment and Labour Relations 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.

[Act [No. 14 of 1977](#), Sch., Act [No. 18 of 2018](#), Sch.]

### 4. High Court is court of admiralty

- (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 ([Cap. 21](#)).

### 5. *[Deleted by Act [No. 46 of 2016](#), s. 38.]*

### 6. Protection of judges and officers

No judge or magistrate, and no other person acting judicially, shall be liable to be sued in a civil court for an 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 a court or other person bound to execute the lawful warrants, orders or other process of a judge or such person shall be liable to be sued in any court for the execution of a warrant, order or process which he would have been bound to execute if within the jurisdiction of the person issuing it.

[Act [No. 10 of 1983](#), Sch.]

## 7. Number of Judges of Appeal and the High Court

- (1) The Court of Appeal shall consist of not more than seventy judges.
- (2) Deleted by Act [No. 27 of 2015](#), Sch.

[Act [No. 6 of 1976](#), Sch., Act [No. 14 of 1977](#), Sch., Act [No. 6 of 1979](#), Sch., Act [No. 12 of 1981](#), Sch., Act [No. 19 of 1982](#), Sch., Act [No. 19 of 1984](#), Sch., L.N. 65/1984, Act [No. 10 of 1997](#), Sch., Act [No. 7 of 2007](#), Sch., Act No. 10A of 2012, s. 3, Act [No. 27 of 2015](#), Sch., Act No. 19 of 2023, Sch.]

## 8. Precedence of judges and of judges of appeal

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

Provided that—

- (i) persons appointed to act as judges who were previously judges shall rank according to the date of their original appointment as judges;
  - (ii) deleted by Act [No. 27 of 2015](#), Sch.
- (2) The judges of appeal shall rank among themselves according to the priority of their respective appointments as judges of appeal:

Provided that—

- (i) persons appointed to act as judges of appeal who were previously judges of appeal shall rank according to the date of their original appointment as judges of appeal;
  - (ii) the President, if he is of the opinion that there are sufficient reasons for so doing, may determine the precedence of judges of appeal irrespective of the priority of their respective appointments.

[Act [No. 14 of 1977](#), Sch., Act No. 10A of 2012, s. 4, Act [No. 27 of 2015](#), Sch.]

## 9. Retirement age

- (1) Subject to subsection (2), the age at which a person holding the office of judge shall retire shall be seventy years.
- (2) Notwithstanding subsection (1), a person holding the office of Judge may elect to vacate office at any time after attaining the age of sixty-five years.

[Act [No. 6 of 1976](#), Sch., Act [No. 14 of 1977](#), Sch., L.N. 162/1980, Act [No. 11 of 2017](#), Sch.]

## 10. Rules

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, and the power to make rules under this section shall include the power to prescribe fees and scales of remuneration.

[Act [No. 4 of 1975](#), s. 2.]

**11. [Spent]****SCHEDULE [s. 3(1)(b)]****APPLICABLE LAWS**

[Act [No. 8 of 1968](#), Sch.]

**Part I**

The Admiralty Offences (Colonial) Act 1849.

The Evidence Act 1851, 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.