

# THE COURTS AND LAWS ADOPTING ORDINANCE OF 1888. <sup>(1)(2)</sup>

## An Ordinance to adopt the Laws of Queensland as the Ordinances of British New Guinea and to Estab- lish Courts of Law in the Possession.

**B**E it enacted by the Administrator of British New Guinea with the advice and consent of the Legislative Council thereof as follows:—

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Sections 1-4  
repealed by  
No. 6 of 1889,  
s. 1.

Sections 5-6  
repealed by  
No. 28 of 1912,  
s. 2.

(1) *The Courts and Laws Adopting Ordinance of 1888* comprises *The Courts and Laws Adopting Ordinance of 1888*, as amended by the other Ordinances referred to in the following Table:—

TABLE.

PART I.—ORDINANCES OF THE LEGISLATIVE COUNCIL OF BRITISH NEW GUINEA.

Short title, number and year.	Date of assent by Administrator.	Date on which published in British N.G. Govt. Gaz.	Date on which took effect.
<i>The Courts and Laws Adopting Ordinance of 1888</i> (No. 4 of 1888) <sup>(a)</sup>	17.9.1888	17.9.1888	The whole, except Secs. 7-12 inclusive, on 17.9.1888 (British N.G. Govt. Gaz. of 17.9.1888); Secs. 7-12 inclusive on 23.2.1889 (Sec. 1, No. 1 of 1889)
<i>The Courts and Laws Adopting Ordinance (Amended) of 1889</i> (No. 6 of 1889) <sup>(a)</sup>	15.11.1889	23.11.1889	23.11.1889 (Supplement to British N.G. Govt. Gaz. of 23.11.1889)

(a) Continued in force in the Territory of Papua by Section 6(1) of the *Papua Act 1905*.

PART II.—ORDINANCE OF THE LEGISLATIVE COUNCIL FOR THE TERRITORY OF PAPUA.

Short title, number and year.	Date of assent by Lieut.-Gov.	Date notified in Papua Govt. Gaz. as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
<i>Justices Ordinance, 1912</i> (No. 28 of 1912)	16.7.1912	(b)	7.5.1913 (Papua Govt. Gaz. of 7.5.1913)

(b) No notice of non-disallowance has been published in *Papua Govt. Gaz.*

(2) *The Courts and Laws Adopting Ordinance (Amended) of 1889*, in addition to amending *The Courts and Laws Adopting Ordinance of 1888*, adopts certain laws and statutes of the United Kingdom and Queensland as laws of the Territory, and is printed below, title LAWS (ADOPTION AND INTERPRETATION).

## COURTS—

Establishment  
of a court of  
record.

7. There shall be within the Possession a court to be called "The Central Court"<sup>(3)</sup> and such court shall be a court of record and shall possess civil and criminal jurisdiction as hereinafter defined and shall be presided over by the Chief Magistrate of the Possession.<sup>(4)</sup>

Criminal  
jurisdiction of  
Central Court.

8. The Central Court<sup>(3)</sup> shall in its criminal jurisdiction have cognizance and jurisdiction of and over all crimes and offences against the law. Provided that in cases punishable by death the carrying out of any capital sentence shall not take place without the sanction obtained under the hand and seal of the Administrator who shall have power to commute any such sentence and to substitute therefor such term of imprisonment with or without hard labour as to him may seem meet.

Chief  
Magistrate to  
make rules of  
court.

9. The Chief Magistrate<sup>(4)</sup> may from time to time make rules of court<sup>(5)</sup> for the conduct of business in the Central Court<sup>(3)</sup> and regarding all matters of practice and procedure therein and such rules shall have validity when approved by the Legislative Council and published in the *Government Gazette*. Until such rules shall be made the practice and procedure of the district courts of Queensland<sup>(6)</sup> as established by the Acts and rules shall be in force within the Central Court.<sup>(3)</sup>

Civil  
jurisdiction of  
Central Court.

10. Subject to the proviso contained in Section 13 hereof the Central Court<sup>(3)</sup> shall in civil cases have the like jurisdiction<sup>(7)</sup> as the Supreme Court of Queensland. The Chief Magistrate<sup>(4)</sup> shall have power to appoint persons as commissioners of affidavits with like

(3) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(4) See Section 4 of the *Central Court Ordinance*, 1925.

(5) See the

*Rules of Civil Procedure*, printed on p. 599;

*Rules for Regulating Civil Procedure (Writs of Summons)*, printed on p. 624;

*Rules of the Central Court for Regulating Civil Procedure*, printed on p. 625;

*Rules of the Central Court for regulating the Admission of Barristers and Solicitors and their Fees*, printed on p. 629;

*Rules of the Central Court for Regulating the Service of Writs, Citations and other Processes issued from Foreign Tribunals*, printed on p. 657;

*Rules of Court (Foreign Conventions)*, 1926, printed on p. 659;

*Rules of the Central Court for Regulating Civil Procedure and the Admission of Barristers and Solicitors*, printed on p. 669;

*Rules of the Central Court*, printed on p. 843;

*Scale of Fees to be paid in Connection with Probate and Letters of Administration*, title WILLS AND INTESTACY.

(6) See now Rule 3 of the *Rules of the Central Court for Regulating Civil Procedure and the Admission of Barristers and Solicitors*, printed on p. 669. The *District Courts Act 1891* (Queensland) and *The District Court Rules, 1891* (Queensland) have been printed in this Annotated Reprint, but *The Rules of the Supreme Court* (Queensland), made applicable to the extent that the *Rules of Civil Procedure* of Papua and *The District Courts Act 1891* (Queensland) and *The District Court Rules, 1891* (Queensland) do not apply, have not been printed. *The Rules of the Supreme Court* (Queensland) may be found in *The Public Acts of Queensland (Reprint) 1828-1936*, Vol. 7, p. 123.

(7) See, also, the *Administration of Justice Ordinance*, 1927.

*The Courts and Laws Adopting Ordinance of 1888.*

powers as such officers have by the laws of Queensland to grant probate of wills and letters of administration<sup>(8)</sup> and to issue writs or orders of prohibition and mandamus<sup>(9)</sup> in like manner as the Supreme Court of Queensland according to the law now in force in that Colony. And in all cases the Central Court<sup>(3)</sup> shall have power to exercise an equitable jurisdiction over the subject-matter of any cause or proceeding according to the laws now governing such matter or cause in Queensland so far as the laws aforesaid are applicable to the circumstances of the Possession. The Chief Magistrate<sup>(4)</sup> shall have all the powers and authority of a judge of the Supreme Court of Queensland in the administration of justice within the Possession.

11. The Chief Magistrate<sup>(4)</sup> may with the sanction of the Administrator appoint any officer of the Central Court<sup>(3)</sup> or any person to perform any necessary duty for bringing before the court any person charged with any criminal or statutory offence and may with like sanction appoint some person to enter and conduct any prosecution in the Central Court<sup>(3)</sup> for any offence as aforesaid and may after obtaining the sanction of the Administrator appoint any officer to carry out or to give effect to any order sentence or decision of the court.

Officers of court may be appointed.

12. The Chief Magistrate<sup>(4)</sup> shall have the care and custody of all records of the Central Court<sup>(3)</sup> and the seal of the Chief Magistrate<sup>(4)</sup> shall be used as the seal of the Central Court<sup>(3)</sup> until a seal for the said court has been provided.

Records and seal of court.

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Section 13 repealed by No. 28 of 1912, s. 2.

14. This Ordinance shall take effect from the date of the publication thereof in the *Government Gazette* except Sections 7, 8, 9, 10, 11 and 12, which shall not come into force until such date as may hereafter be fixed by Proclamation<sup>(10)</sup> by the Administrator published in the *Government Gazette*.

Suspending operation of Sections 7 to 12.

15. It shall be lawful for the Administrator by Proclamation<sup>(11)</sup> in the *Government Gazette* to exempt from the operation of this Ordinance or from any part or parts thereof any district of the

Districts and natives may be exempted from the operation of this Ordinance.

(3) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

(4) See Section 4 of the *Central Court Ordinance*, 1925.

(8) See now the *Probate and Administration Ordinance*, 1913-1940.

(9) See now Section 3(6) of the *Administration of Justice Ordinance*, 1927.

(10) No proclamation was published in British N.G. *Govt. Gaz.* See, however, Section 1 of Ordinance No. 1 of 1889, printed on p. 575.

(11) No proclamation has been published in British N.G. *Govt. Gaz.* or in Papua *Govt. Gaz.*

COURTS—

Possession or the aboriginal natives of any such district and by like Proclamation to bring within the operation of this Ordinance or any part or parts thereof any district or the aboriginal natives of any district exempted as aforesaid.

Short title.

**16.** This Ordinance may be cited for all purposes as *The Courts and Laws Adopting Ordinance of 1888.*<sup>(1)</sup>

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(1) See footnote (1) printed on p. 571.