EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order makes provision for regulating appeals from the Court of Appeal of Sarawak, North Borneo and the State of Brunei to His Majesty in Council.

The Sarawak, North Borneo and Brunei (Courts) Order in Council, 1951

1951 No. 1948

Made - - - -	14*th November*, 1951
Laid before Parliament	15*th November*, 1951
Coming into Operation	1*st December*, 1951

At the Court at Buckingham Palace, the 14th day of November, 1951

Present,

The King's Most Excellent Majesty in Council

Whereas by Laws now in force there are established in the Colony of Sarawak courts styled respectively the Supreme Court and the Circuit Courts, in the Colony of North Borneo the High Court and the Sessions Courts, and in the State of Brunei the office of the Judge of Appeal and the Court of the Resident of Brunei:

And Whereas it is expedient that in place of the Courts aforesaid there should be established for the Colonies of Sarawak and North Borneo and the State of Brunei, one Supreme Court of Judicature, consisting of a High Court and a Court of Appeal:

And Whereas by virtue of the Sarawak Letters Patent, 1946(**a**), the North Borneo Letters Patent, 1946(**b**), and (as respects that part of the Colony of North Borneo which previously formed the Settlement of Labuan) the British Settlements Acts, 1887 and 1945(**c**), and the Straits Settlements (Repeal) Act, 1946(**d**), His Majesty in Council has power to make laws for the peace, order and good government of the said Colonies:

And Whereas by an Enactment of His Highness the Sultan in Council of the State of Brunei intituled the Superior Courts (Authorization) Enactment, 1951, it is provided that, as from such day as may be appointed by or in pursuance of an Order of His Majesty in Council, the office of the Judge of Appeal and the Court of the Resident of the State of Brunei shall cease to exist, and in place thereof there shall be such Court or Courts as His Majesty may by Order in Council establish, with such original and appellate jurisdiction and such powers and duties as may be determined by, or in pursuance of, any Order of His Majesty in Council or any other law for the time being in

(**a**) S.R. & O. 1946, I, p. 2358. (**b**) S.R. & O. 1946, I, p. 2349.
(**c**) 50 & 51 Vict. c. 54; 9 & 10 Geo. 6. c. 7. (**d**) 9 & 10 Geo. 6. c. 37.

force; and that the Judges and officers of any Court so established shall be appointed in such manner, and shall hold office on such terms, as may be determined as aforesaid:

And Whereas it is expedient, in order conveniently to secure the application of laws and other enactments relating to pensions and other conditions of service, that provision should be made for the appointment to the service of the Government of one of the aforesaid territories of each of the Judges and officers of the said Supreme Court:

Now, therefore, His Majesty, by virtue and in exercise of the powers hereinbefore mentioned, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows:—

PART I

Preliminary

Short title, application and commencement

1.—(1) This Order may be cited as the Sarawak, North Borneo and Brunei (Courts) Order in Council, 1951.

(2) This Order shall apply to the Colonies of Sarawak and North Borneo and to the State of Brunei and shall come into operation on the first day of December, 1951.

Interpretation

2.—(1) In this Order unless the context otherwise requires—

"the appointed day" means the first day of December, 1951;

"Brunei" means the State of Brunei;

"the Court of Appeal" means the Court of Appeal of Sarawak, North Borneo and Brunei established by this Order;

"the Governor" means the Governor of Sarawak or the Governor of North Borneo or the High Commissioner, as the case may require;

"the Governors" means the Governor of Sarawak, the Governor of North Borneo and the High Commissioner, acting jointly;

"the High Commissioner" means the High Commissioner for Brunei and includes an acting High Commissioner;

"the High Court" means the High Court of Sarawak, North Borneo and Brunei established by this Order;

"His Highness the Sultan" means His Highness the Sultan of Brunei, his heirs and successors and includes a Regent or Regents, subject to any modifications or conditions contained in his or their appointment;

"Judge" includes Chief Justice;

"judgment" includes decree, order, sentence and decision;

"Law" means any Act, Order of His Majesty in Council, Ordinance or Enactment for the time being in force in any territory, and any proclamation, rule, regulation, by-law, order, notice, or any other instrument made under any such Act, Order, Ordinance or Enactment;

"North Borneo" means the Colony of North Borneo;

" the present Superior Courts " means the Supreme Court and Circuit Courts of Sarawak, the High Court and Sessions Courts of North Borneo and the Judge of Appeal and the Court of the Resident of Brunei ;

" Public Seal " means, with reference to Sarawak or North Borneo, the Public Seal of the Colony and, with reference to Brunei, the seal or stamp of the High Commissioner ;

" rule of Court " means a rule of Court made under, or kept in force by, the provisions of this Order ;

" Sarawak " means the Colony of Sarawak ;

" the Sultan in Council " means His Highness the Sultan acting with the advice of the State Council of Brunei, but not necessarily in accordance with that advice and not necessarily in Council assembled ;

" the Supreme Court " means the Supreme Court of Sarawak, North Borneo and Brunei established by this Order ;

" the territories " means Sarawak, North Borneo and Brunei ;

" territory " means Sarawak or North Borneo or Brunei, as the case may be.

(2) Any reference in this Order to a Judge or other Officer by a term designating his office shall be construed as including a reference to the person for the time being lawfully discharging the functions of that office.

(3) The Interpretation Act, 1889(a), shall apply for the interpretation of this Order, as it applies for the interpretation of an Act of Parliament ; and subsection (3) of section 32 of that Act shall apply to orders made under sections 10, 11 and 32 of this Order as it applies to rules.

Functions of High Commissioner

3. All functions conferred by this Order on the High Commissioner shall be exercised by him with the concurrence of the Sultan in Council.

PART II

The Supreme Court

Establishment of Supreme Court

4. Subject to the provisions of this Order, the present Superior Courts shall cease to exist on the appointed day and in their place there shall be, for the territories to which this Order applies, one Superior Court of Record styled the Supreme Court of Sarawak, North Borneo and Brunei, consisting of the High Court of Sarawak, North Borneo and Brunei and the Court of Appeal of Sarawak, North Borneo and Brunei.

Judges of the Supreme Court

5.—(1) The Supreme Court shall consist of a Chief Justice and as many Puisne Judges as may from time to time be appointed.

(2) The Chief Justice shall be styled the Chief Justice of Sarawak, North Borneo and Brunei and shall be President of the Court.

(3) The Judges of the Supreme Court shall be appointed by the Governors, for and on behalf of His Majesty and His Highness the Sultan, by Letters Patent under the Public Seals.

(a) 52 & 53 Vict. c. 63.

(4) No person shall be appointed to be a Judge of the Supreme Court unless—

(*a*) he is qualified to practise as an advocate in a Court in England, Scotland, Northern Ireland, some other part of His Majesty's dominions, some territory under His Majesty's protection, India or the Republic of Ireland, having unlimited jurisdiction in either civil or criminal matters ; and

(*b*) he has been qualified for not less than five years to practise as an advocate or solicitor in such a Court.

(5) A Judge shall ordinarily reside in such territory as the Chief Justice, with the concurrence of the Governors, may direct.

(6) The Judges of the Supreme Court shall be in the service of such territory as the Secretary of State may, in the case of each Judge, from time to time direct ; and on the date as from which any such direction takes effect or is declared by the Secretary of State to have taken effect, the Judge affected thereby shall, if he was not before that date in the service of the territory therein mentioned, be regarded as appointed to the service of that territory ; and accordingly, the Laws and instruments from time to time in force in that territory relating to pensions, gratuities and other like benefits, or to terms and conditions of service (including allowances which are not taken into account in computing pensions) shall, save as may be otherwise expressly provided therein and subject to the provisions of section 25 of this Order, apply in relation to him with such adaptations, modifications and additions (if any) as a Secretary of State may from time to time direct.

(7) Where, by virtue of the exercise of the powers of this section, any person is in the service of any territory, he shall not be regarded as in the service of the other territories.

Acting appointments

6.—(1) Whenever there shall be a vacancy in the office of Chief Justice or of Puisne Judge, or whenever owing to illness, personal interest in any matter before the Court, absence of any Judge from any territory or any other cause, the Chief Justice or any Puisne Judge is unable to perform the duties of his office, or whenever it is in the opinion of the Governors expedient in the interests of the administration of justice so to do, the Governors may by instrument under the Public Seals appoint a fit person to act as Chief Justice or Puisne Judge, as the case may require.

(2) Subsection (4) of section 5 of this Order shall apply to appointments under subsection (1) of this section.

(3) Any such appointment may be limited to a specified period or purpose and may be determined by the Governors at any time by instrument under the Public Seals.

(4) Subject to any express provisions to the contrary contained in any Law, so long as a person is lawfully acting as Chief Justice or Puisne Judge, he shall be deemed for all purposes (except as respects emoluments) to be the Chief Justice or a Puisne Judge, as the case may be, and shall have all the powers, rights and immunities and perform all the duties possessed by or imposed upon the substantive holder of the office in which he is acting.

Precedence of Judges

7. The Puisne Judges shall take precedence as between themselves according to such instructions as may from time to time be given by a Secretary of State:

Provided that substantive Puisne Judges shall take precedence before all persons acting as Puisne Judges.

Powers and privileges of Courts, Judges and Officers

8. The High Court and the Court of Appeal and all Judges thereof shall have in all respects throughout the territories the same powers in relation to contempt of Court, and the said Judges and all offices of the said Courts shall have and enjoy throughout the territories the same immunities from legal proceedings as, by the law of England, are for the time being had and enjoyed by the Supreme Court of Judicature in England or any Judge or officer thereof.

PART III

The High Court

Constitution of High Court

9. Subject to any provision to the contrary in any Law, every proceeding in the High Court and all business arising thereout shall be heard and disposed of before a single Judge:

Provided that

(1) in any civil or criminal proceedings in the High Court, the Judge may, on his own motion or at the request of any of the parties thereto, if he thinks fit call in the assistance of one or more suitable persons as assessors and shall in such case record the opinion of such assessor or assessors on all matters on which their opinion is asked, but the decision on such matters shall be vested exclusively in the Judge:

(2) in any civil or criminal proceedings in the High Court, whether or not the Court is being assisted by assessors, the Judge may if he thinks fit sit with one or more persons, each of whom shall be either a person qualified to preside in a Court established for the purpose of hearing cases concerning native law or custom or a person who the Judge is satisfied otherwise has knowledge of native law or custom, to advise him on the significance of words or expressions in a native language or on questions of native law or custom.

Commissioners of the High Court

10.—(1) Whenever he is satisfied that no Judge is available to attend to business of the High Court in any part of a territory, the Governor of that territory, upon the recommendation of the Chief Justice, may by order appoint some person

(*a*) to perform all or any of the functions of a Judge in respect of any particular case or class of cases, or

(*b*) to perform, within such area and for such period as may be specified in the order, such functions of a Judge as it shall appear to that person require to be performed without delay,

subject to such limitations and conditions, if any, as may be specified in such order.

(2) Any person appointed under the provisions of subsection (1) of this section shall be designated a Commissioner of the High Court and all things done by him in accordance with the terms of his appointment shall have the same validity and effect as if they had been done by a Judge, and in respect thereof he shall have the same powers and enjoy the same immunities as if he had been a Judge.

Jurisdiction of the High Court

11.—(1) Without prejudice to the provisions of section 26 of this Order, all jurisdiction, power and authority vested immediately before the appointed day in the present Superior Courts, the Chief Justice, Judges, Registrars and other officers thereof, whether original or on appeal from Courts inferior to the present Superior Courts or in revising judgments or other proceedings of such Courts, is hereby vested in the High Court and the Chief Justice, Puisne Judges, Registrars and corresponding officers thereof respectively, except so far as the said jurisdiction, power and authority is by or under this Order vested in the Court of Appeal.

(2) The Governor of any territory, on the recommendation of the Chief Justice, may, by order under his hand, declare that any jurisdiction, power or authority vested in the Chief Justice of that territory immediately before the appointed day shall be vested also in all or any of the Puisne Judges.

Process to run throughout the territories

12. Subject to any rules of Court, the process of the High Court shall run throughout the territories, and any judgment of the High Court shall have full force and effect, and may be executed and enforced, in any territory.

PART IV

The Court of Appeal

Court of Appeal

13.—(1) The Judges of the Supreme Court shall be the Judges of the Court of Appeal.

(2) The Chief Justice shall be the President of the Court of Appeal and in his absence the senior member of the Court shall preside.

Constitution of Court of Appeal

14.—(1) Subject to the provisions of this Order—

(*a*) for the purposes of the hearing and determination of appeals, the Court of Appeal shall be duly constituted if it consists of an uneven number of Judges, not being less than three ;

(*b*) the determination of any question before the Court of Appeal shall be according to the opinion of the majority of the members of the Court hearing the appeal.

(2) Provision may be made by rules of Court for the hearing and determination of specified classes of appeals by a Court of two Judges, but if either or both of such Judges are of opinion that the appeal should be reserved for hearing before a Court constituted in accordance with the provisions of paragraph (*a*) of subsection (1) of this section, it shall be so reserved.

(3) Where in any appeal heard by a Court of two Judges in accordance with the provisions of subsection (2) of this section, the members of the Court fail to agree upon any matter for decision on the appeal, then, subject to the provisions of that subsection, if one of the members agrees with the judgment of the Court or authority from which the appeal is brought, that judgment shall be deemed to be the judgment of the Court, and in any other event the appeal shall be reserved for hearing before a Court constituted in accordance with the provisions of paragraph (*a*) of subsection (1) of this section.

(4) Provision may be made by rules of Court for the summary rejection of applications for leave to appeal or of civil appeals or criminal appeals (except where the appellant has been sentenced to death) where it appears to two Judges that the appeal does not involve any point of law and that there has been no miscarriage of justice.

Powers of single Judge

15. A single Judge of the Court of Appeal may exercise any power vested in the Court not involving the decision of the appeal; but

(*a*) in criminal matters, if any Judge refuses an application for the exercise of any such power, the person making the application shall be entitled to have his application determined by the Court; and

(*b*) in civil matters, any order, direction or decision made or given in pursuance of the powers conferred by this section may be varied, discharged or reversed by the Court.

Judge not to sit on appeal from his own decision

16. A Judge of the Court of Appeal shall not sit as a Judge on the hearing of an appeal:—

(*a*) from any judgment given by himself or any judgment given by any Court of which he was sitting as a member;

(*b*) against a conviction or sentence if he was the judge by or before whom the appellant was convicted.

General Powers of Court of Appeal

17. The process of the Court of Appeal shall run throughout the territories, and any judgment of the Court of Appeal shall have full force and effect, and may be executed and enforced, in any territory in like manner as if it were an original judgment of the High Court or other Court or authority from which the appeal is brought; and for all purposes of, and incidental to, the hearing and determination of any appeal within its jurisdiction, the Court of Appeal shall have all the power, authority and jurisdiction vested in the High Court or other Court or authority from which the appeal is brought.

Criminal appeals

18.—(1) A person convicted before the High Court may appeal to the Court of Appeal—

(*a*) as of right against his conviction on any ground of appeal which involves a question of law alone; and

(*b*) with the leave of the Court of Appeal or upon the certificate of the Judge who tried him that it is a fit case for appeal, against his conviction on any ground of appeal which involves a question

of fact alone, or a question of mixed law and fact, or any other ground which appears to the Court of Appeal or the Judge, as the case may be, to be a sufficient ground of appeal; and

(*c*) with the leave of the Court of Appeal against the sentence passed on his conviction, unless the sentence is one fixed by law.

(2) The provisions of subsection (5) of section 1, sections 4 to 10 inclusive, subsection (2) of section 11, subsections (1), (2) and (3) of section 14, and sections 15, 17, 19 and 21 of the Criminal Appeal Act, 1907(a), shall apply for hearing and determination of, and otherwise in relation to, appeals under the preceding subsection as if they were set out in this Order with such modifications as may be necessary to adapt them to the circumstances of the territories, and in particular—

(*a*) section 4 of the said Act shall apply as if the words "or order a new trial" were added at the end of subsection (2) of the said section;

(*b*) sections 5 and 6, subsection (1) of section 14 and section 21 of the said Act shall apply as if for the references therein to certain enactments there were substituted references to such like enactments in force in the territories as may be specified in rules of Court;

(*c*) section 7 of the said Act shall apply as if for the period of ten days mentioned therein there were substituted the period of fourteen days; and

(*d*) section 19 of the said Act shall apply as if for the reference therein to the Secretary of State there were substituted a reference to the Governor.

Questions reserved for Court of Appeal

19. 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 Court of Appeal any question of law which has arisen in the course of the trial, the determination of which would affect the event of the trial, and the question so reserved shall be determined by the Court of Appeal as if it had been raised on an appeal by the person convicted, and the provisions of this Order shall apply accordingly.

Civil Appeals

20.—(1) Subject to the provisions of subsection (2) of this section and the provisions of any Law, an appeal in civil matters shall lie to the Court of Appeal—

(*a*) as of right, from all judgments of the High Court whether sitting in original or appellate jurisdiction;

(*b*) by leave of the Court of Appeal or the Judge, from any interlocutory order or decision of a Judge made in the course of any suit or matter in the High Court:

Provided that no appeal shall lie except by leave of the Court of Appeal or a Judge—

(i) from any judgment of the High Court when the amount or value of the subject matter of the trial is less than five hundred dollars; or

(ii) from an order as to costs only; or

(iii) from an order made by the consent of the parties.

(a) 7 Edw. 7. c. 23.

(2) The Court of Appeal shall not entertain any appeal unless the appellant has fulfilled all the conditions of appeal imposed in accordance with rules of Court or any Law.

PART V

General

Seal

21. The Supreme Court shall have, and use as occasion requires, a seal bearing the style of the Court and such device as a Secretary of State shall approve.

Rules of Court

22.—(1) Subject to the provisions of this Order, the Chief Justice may, with the approval of the Governors, make rules of Court for regulating the practice and procedure of the Supreme Court and may, in addition, with the approval of the Governor of any territory, make special rules for regulating the practice and procedure of the High Court in that territory.

(2) Without prejudice to the generality of the foregoing subsection, such rules may be made for any of the following purposes—

(*a*) dividing the territories into circuits for the purpose of distributing the business of the Supreme Court;

(*b*) prescribing the times and places of the sittings of the Courts, and providing for the selection of Judges for any sittings;

(*c*) prescribing the procedure in connection with the transfer of proceedings from one circuit to another circuit;

(*d*) prescribing forms and fees, and regulating costs;

(*e*) regulating the joinder of parties and prescribing in what cases orders may be made for the representation of absent parties by other parties to a matter or proceeding;

(*f*) prescribing cases in which, and the conditions upon which, an appellant in a criminal appeal to the Court of Appeal may be, or shall be entitled to be, present at the hearing of the appeal;

(*g*) regulating the rate of interest recoverable on 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 otherwise agreed between parties;

(*h*) regulating and prescribing the modes in which judgments or orders of the Court in civil matters and proceedings may be executed, including seizure and sale of moveable or immoveable property;

(*i*) regulating the discovery of a judgment debtor's property in aid of the execution of any judgment or order of the Court;

(*j*) regulating the taking of evidence before an examiner or on commission or by letters of request, and prescribing the circumstances in which evidence so taken may be admitted in a civil matter or proceeding in the Court;

(*k*) regulating the receipt, disposal and payment out of moneys and securities by the Court, the investment thereof and the payment of interest thereon, and manner in which unclaimed funds may be dealt with;

(*l*) regulating and prescribing the powers and duties of officers of the Court ;

(*m*) prescribing the conditions upon which a party to a matter or proceeding may be represented in Court:

Provided that no rule shall be made which would permit any person to appear for reward as an advocate for a party in a proceeding unless such person is qualified to practise in a Court in England, Scotland, Northern Ireland, some other part of His Majesty's dominions, some territory under His Majesty's protection, India or the Republic of Ireland ;

(*n*) making provision that the Court of Appeal or the High Court shall have power to hear any matter or proceeding or any part thereof *in camera* if, in the opinion of such Court, it is expedient in the interests of justice, security or propriety or for other sufficient reasons so to do ;

(*o*) for any purpose (so far as applicable) for which rules of Court may be made in England under the provisions of section 99 of the Supreme Court of Judicature (Consolidation) Act, 1925(**a**) ;

(*p*) making provision for any matter which, under this Order, is to be provided for by rules of Court.

(3) Rules made under this section may provide that the provisions of any Law in force on the appointed day shall cease to have effect, or shall be repealed, in so far as such provisions relate to matters in respect of which such rules are lawfully made ; and in the event of inconsistency or conflict between any Law in force on the appointed day and a rule lawfully made under this section the provisions of the rule shall prevail.

Present practice and procedure

23.—(1) All Laws or rules of Court relating to practice and procedure in the present Superior Courts in force on the appointed day in any territory, except in so far as they may be inconsistent with the provisions of this Order or any rules of Court made thereunder or may be amended, or revoked, shall remain in force as respects proceedings of the Supreme Court in matters relating to that territory but shall be construed subject to such modifications as may be necessary to bring them into conformity with the provisions of this Order or rules of Court made thereunder.

(2) If in any matter the Law as aforesaid in force in more than one of the territories conflict, and doubt arises in any case as to which of such Laws should be applied, the question shall be determined by a Judge or as may be prescribed by rules of Court.

Officers of the Court

24.—(1) There shall be in each territory such Registrars and other officers of the Supreme Court as the Governor of such territory may, subject to any Law, appoint for such territory. Every such officer shall be in the service of the territory for which he is appointed and shall discharge such duties as may be prescribed by Law or rules of Court, or as the Chief Justice may direct.

(2) One of such Registrars shall be appointed by the Governors to be Chief Registrar of the Supreme Court.

(a) 15 & 16 Geo. 5. c. 49.

(3) Whenever the Chief Registrar, a Registrar or other officer of the Supreme Court is for any reason unable to perform the duties of his office or whenever any such office is vacant, the Governors in the case of the Chief Registrar, and the Governor of the territory for which the Registrar or other officer was appointed in any other case, may appoint a fit person to act as Chief Registrar or Registrar or such other officer; and so long as a person is lawfully acting in any such office, he shall be deemed for all purposes (except as respects emoluments) to be the Chief Registrar, Registrar or such other officer, as the case may be, and shall have all the powers, rights and immunities and perform all the duties possessed by or imposed upon the substantive holder of the office in which he is acting.

(4) Any appointment under the preceding subsection may be determined by the Governors or the Governor, as the case may be, at any time.

Remuneration, expenses, pensions, etc.

25.—(1) The Judges and officers of the Supreme Court shall receive such emoluments (excluding allowances which are not taken into account in computing pensions) as may be determined by the Governors with the approval of a Secretary of State.

(2) The expenses of the Supreme Court shall be borne by the territories in such proportions, and fees payable under rules of Court and fines shall be applied and dealt with in such manner, as may from time to time be determined by the Governors.

(3) For the purposes of subsection (2) of this section, emoluments, allowances and expenses of the Judges and the officers of the Supreme Court, and the cost of provision of premises for use of the Court and of residences for such Judges and officers, shall be included in the expenses of the Supreme Court to such extent only as the Governors may determine.

(4) Where, by reason of section 5 of this Order, any pension, gratuity or other like benefit or any other sum is payable out of the funds of any territory, the Governments of the other territories shall pay to the Government of that territory in respect thereof such contributions as shall from time to time be determined by the Governors with the approval of a Secretary of State.

Saving for powers of legislatures

26. Nothing in this Order shall affect the powers of the legislature of any territory or any other authority to make laws, not repugnant to the provisions of this Order, amending, adding to, repealing, revoking, or otherwise affecting any Law in force on the appointed day or conferring jurisdiction, rights or powers or imposing duties on the Supreme Court or any Judge or officer thereof in matters within the jurisdiction of the territory.

Appointments when officers on leave

27. When a substantive holder of any office constituted by or under this Order is on leave of absence pending relinquishment of his office, it shall be lawful for another person to be appointed substantively to the same office.

Reference to the Secretary of State

28. In the event of the Governors failing to agree upon any matter upon which their agreement is required under this Order, the matter shall be referred to the Secretary of State and his decision shall be deemed to be that of the Governors.

PART VI

Transitional Provisions

Adaptation of existing law, etc.

29. Subject to the provisions of section 11 of this Order, references in Laws in force on the appointed day or in other instruments or documents made before that day, to any of the present Superior Courts or to Judges, Registrars or officers thereof, shall, unless the context or the interests of justice otherwise require, be construed as references to the Supreme Court or to Judges, Registrars or officers of the Supreme Court, as the case may require.

Pending proceedings, etc.

30.—(1) Proceedings, whether at first instance or on appeal, pending in the present Superior Courts on the appointed day may be carried on in the High Court or, in the case of an appeal from any of the present Superior Courts, in the Court of Appeal, and enforced in like manner, as nearly as may be, as if the High Court were the Court in which such proceedings were commenced or the High Court or the Court of Appeal were the Court to which the appeal was originally brought, as the case may be; and any such proceedings may be amended, by order of any Judge or under rules of Court, in such manner as may appear necessary or proper in consequence of the provisions of this Order.

(2) The provisions of the preceding subsection, so far as applicable, shall apply in relation to the enforcement of judgments of any of the present Superior Courts given, but not satisfied, before the appointed day.

(3) Where, in any proceedings commenced before the appointed day an appeal would have lain from any Court to any of the present Superior Courts if this Order had not been made, an appeal shall lie, in accordance with the law in force in the territory where the proceedings were commenced and with rules of Court, from any judgment given in such proceedings, either to the Court of Appeal or to the High Court as may be determined by rules of Court.

(4) The Supreme Court shall have no jurisdiction to hear and determine or to give any judgment or decision or make any order, whether interlocutory or otherwise, in any proceeding in respect of a cause of action which arose prior to the appointed day, unless at least one of the present Superior Courts would have had jurisdiction so to do.

Seals—temporary provision

31. Until seals are provided in accordance with the provisions of this Order, stamps bearing the words "the Supreme Court of Sarawak, North Borneo and Brunei" and countersigned by a Registrar of the Court may be used instead of such seals.

Removal of difficulties

32. If any difficulty should arise in any territory or generally in bringing into operation any of the provisions of this Order, or in giving effect to the purposes thereof, a Secretary of State may, by order, make such provision as may seem to him necessary or expedient for the purpose of removing such difficulty and, by such order may vary, annul or add to the provisions in this Order:

Provided that no Order under this section shall be made later than the thirty-first day of December, 1953.

F. J. Fernau.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order provides for the replacement of the Superior Courts at present established in the Colonies of Sarawak and North Borneo and the State of Brunei, by the establishment of one Supreme Court of Judicature for the three territories, consisting of a High Court and a Court of Appeal.

SEEDS, ENGLAND

The Seeds (Amendment) Regulations, 1951

1951 No. 1005

Made - - - -	*2nd June,* 1951
Laid before Parliament	*6th June,* 1951
Coming into Operation	*1st August,* 1951

In exercise of his powers under Section 7 (1) of the Seeds Act, 1920(**a**), and after consultation with representatives of the interests concerned (and as respects forest tree seeds, after consultation with the Forestry Commissioners), the Minister of Agriculture and Fisheries hereby makes the following regulations:—

1. These Regulations, which may be cited as the Seeds (Amendment) Regulations, 1951, shall come into operation on the first day of August, 1951.

2. Regulation 7 of the Seeds Regulations, 1922(**b**), is hereby revoked, and the following regulation substituted therefor:—

7.—(1) "Pure seed" means, with the exception of seeds or pieces of seeds of legumes and crucifers from which the seed coat is entirely removed, whole seeds of the kind of which the parcel purports to consist, including any such seeds which are sprouted, shrivelled, cracked, insect-damaged, diseased, or otherwise injured, and pieces of such seeds larger than one half of the original size of the whole seed:

Provided that when applied to those species, varieties, stocks or strains of plants the seeds of which cannot be distinguished from one another by expert macroscopic examination, the use of the term "pure seed" does not imply that the seed is genuine or true to name.

(a) 10 & 11 Geo. 5. c. 54. (b) S.R. & O. 1922 (No. 915) p. 959.