

BLACK HIGH COURT ABOLITION ACT 13 OF 1954

[ASSENTED TO 31 MARCH 1954]

[DATE OF COMMENCEMENT: 1 JANUARY 1955]

(Unless otherwise indicated)

(English text signed by the Governor-General)

as amended by

Criminal Procedure Act 56 of 1955
General Law Amendment Act 50 of 1956

ACT

To provide for the abolition of the Black High Court, the transfer of the jurisdiction thereof to the Supreme Court, and for other incidental matters.

1 Definitions

In this Act, unless the context indicates otherwise-

'**Black High Court**' means the Natal Black High Court constituted under section seven of the Courts Act, 1898 (Act 49 of 1898 (Natal));

'**Supreme Court**' means the provincial or any local divisions of the Supreme Court of South Africa having jurisdiction in respect of the whole or any part of the Province of Natal.

2 Abolition of Black High Court

The Black High Court shall be and the same is hereby abolished.

3 Transfer of jurisdiction of Black High Court to Supreme Court

The jurisdiction which immediately prior to the commencement of this Act was vested in, or capable of being exercised by the Black High Court shall be and the same is hereby transferred to and vested in the Supreme Court.

4 Pending cases to be heard by Supreme Court

All criminal cases pending in the Black High Court at the date of commencement of this Act shall stand removed to the Supreme Court, which shall have jurisdiction to hear and determine the same: Provided that any case partly heard at that date may be further heard and determined as if this Act had not been passed.

5 Hearing of criminal cases formerly heard by Black High Court

Any criminal case, which, but for this Act, might have been heard by the Black High Court, may be heard and determined by the Supreme Court, or in the discretion of the Attorney-General may be sent to and determined by the court of a magistrate or regional magistrate which has by law jurisdiction to hear such a case.

6 Saving of existing rights of appeal

(1) Nothing in this Act contained shall be construed as prejudicing any right existing immediately prior to the commencement of this Act to prosecute any pending appeal or to bring any appeal from any judgment or order of the Black High Court. Any such appeal may be prosecuted or brought as if this Act had not been passed.

(2) If by reason of this Act application for leave to appeal in terms of subsection (1) of section *three hundred and sixty-nine* of the Criminal Procedure and Evidence Act, 1917 (Act 31 of 1917), or for a special entry to be made on the record in terms of section

three hundred and seventy of the said Act or for any question of law to be reserved in terms of section *three hundred and seventy-two* of the said Act, cannot be made to the Black High Court or any judge thereof, such application may be made to a judge of the Supreme Court.

(3) For the purpose of carrying into effect any order or direction given by the court of appeal in terms of section *three hundred and seventy-four* of the Criminal Procedure and Evidence Act, 1917 (Act 31 of 1917), in the case of an appeal in terms of subsection (1), the case shall be deemed to have been tried by the Natal Provincial Division of the Supreme Court.

7 Transfer of records of Black High Court to Supreme Court

Within one month after the commencement of this Act or within such further period as may be ordered by the Judge President of the Supreme Court, the person holding the office of Registrar of the Black High Court at such commencement shall cause all records belonging to the Black High Court, together with all registers relating thereto, to be transferred to the office of the Registrar of the Supreme Court, Pietermaritzburg, who shall thereafter have the charge of such records and registers in like manner as of the records and registers of the Supreme Court; and all other books, documents, papers and chattels in the possession of the Black High Court or of any person attached to the Black High Court, shall be transferred in like manner to the Supreme Court, and shall be dealt with by such person as the Judge President may by order direct; and any person failing to comply with any order made for the purpose of giving effect to this section shall be guilty of a contempt of the Supreme Court.

8

Amends section 2 of the Appellate Division Further Jurisdiction Act 1 of 1911.

9 and 10

Amend respectively sections 9 and 21 of the Administration of Justice Act 27 of 1912.

11 to 16 inclusive

[Ss. 11 to 16 inclusive repealed by s. 391 (1) of Act 56 of 1955 .]

17

Amends section 1 of the Natal Black High Court Act 9 of 1921

[Date of commencement of s. 17: 1 January 1954.]

18

[S. 18 repealed by s. 32 of Act 50 of 1956 .]

19

Amends section 7 of the General Law Amendment Act 54 of 1949 .

20

Amends section 23 of the General Law Amendment Act 32 of 1952 .

21 Repeal of laws, and saving of pension rights

The Laws specified in the Schedule hereto are hereby repealed to the extent set out in the fourth column of that Schedule: Provided that such repeal shall not be construed as in any way affecting the right which any person who, immediately prior to the commencement of this Act was a judge of the Black High Court, may have to receive a pension or other benefit under any pensions law applicable.

22 Savings of powers of Supreme Court

Nothing contained in this Act shall be construed in any way to limit the powers of the Supreme Court as conferred by any other law.

23 Service as judge of Black High Court of person appointed as judge of Supreme Court deemed to be service with Supreme Court for pension or leave purpose

(1) If any person who immediately before the commencement of this Act was a judge of the Black High Court, is immediately after such commencement appointed a judge of any division of the Supreme Court of South Africa, the period of service of such person as a judge of the Black High Court shall for the purposes of a pension under the provision of the Judges' Salaries and Pensions Act, 1912, or for the purposes of absence on leave, be deemed to be service as a judge of the Supreme Court.

(2) Pension or other benefit payable to person appointed as judge to lapse. If any person who, on his retirement, is entitled in terms of section *five* of the Financial Adjustments Act, 1929 (Act 27 of 1929), to receive such pension or other retiring benefits as he may be entitled to under any law referred to in that section, is appointed in accordance with the provisions of subsection (1), as a judge of any division of the Supreme Court of South Africa, such right to a pension or other retiring benefit and any right to a leave gratuity to which any such person may, on retirement, be entitled, shall lapse: Provided that the amounts paid by and in respect of any such person to the Union Public Service Pension Fund established under section *three* of the Government Service Pensions Act, 1936 (Act 32 of 1936), shall be paid out of that Fund to the Consolidated Revenue Fund, together with interest at the rate of four per cent per annum on twice the amounts paid in respect of that person, calculated according to the dates upon which those amounts became payable: Provided further that any such person shall be entitled to the surrender value of his contributions to the Union Widows' Pension Fund established under section *seventy-eight* of the Public Service Act, 1923 (Act 27 of 1923).

24 Short title and date of commencement

This Act shall be called the Black High Court Abolition Act, 1954, and shall come into operation on a date to be notified by the Governor-General by proclamation in the *Gazette*, save as to section *seventeen* which shall come into operation on the date of promulgation of this Act.

Schedule

(Section 21)

Province or Union	No and Year of Law	Long or Short Title or Subject of Law	Extent of Repeal
Natal	Law 49 of 1898	The Courts Act, 1898	The whole
Natal	Law 47 of 1901	An Act to amend the Courts Act, 1898	So much as is unrepealed
Natal	Law 30 of 1910	An Act to amend the Courts Act, 1898	The whole
Union	Act 9 of 1921	Natal Black High Court Act, 1921	So much as is unrepealed
Union	Act 39 of 1926	The Criminal and Magistrates' Courts Procedure Amendment Act, 1926	Section 44
Union	Act 27 of 1929	Financial Adjustments Act, 1929	Section 5
Union	Act 46 of 1935	General Law Amendment Act, 1935	Section 77

Union	Act 57 of 1946	Finance Act, 1946	Section 21
Union	Act 36 of 1948	Judges' Salaries and Pensions Amendment Act, 1948	Section 4
Union	Act 54 of 1949	General Law Amendment Act, 1949	Section 6 (c)
Union	Act 46 of 1950	Natal Black High Court Amendment Act, 1950	The whole
Union	Act 50 of 1952	Finance Act, 1952	Section 9
Union	Act 45 of 1953	Finance Act, 1953	Section 13