

CHAPTER 20.**ESCHEAT.****ARRANGEMENT OF SECTIONS.****SECTION.**

- Preamble.
1. Short title.
 2. Appropriation to public purposes of casual revenue.
 3. Order by Governor in Council of payment to persons establishing claims thereto.
 4. Petition to Supreme Court by claimant on failure to establish claim.
 5. Transfer of escheated property to Accountant General or claimants.
 6. Appointment of Escheator.
 7. Payment of fees, etc., to Escheator.
 8. Chief Justice to be Commissioner of Escheat.
 9. In order to escheat, Attorney General may file a claim.
 10. No escheat after twenty years' possession.
 11. Notice of filing of claim by Attorney General.
 12. Hearing the cause.
 13. Attendance of persons.
 14. Affidavits receivable in evidence.
 15. Compulsory attendance of witnesses.
 16. False oath or affirmation to be perjury.
 17. Attendance of Registrar General.
 18. Declaration vesting lands in the Crown by way of escheat.
 19. Effect of certificate of Judge.
 20. Notification of certificate vesting lands.
 21. Land escheated to form part of general revenue.
 22. Governor may appoint assessors.
 23. Report in favour of persons equitably entitled, to be annexed to certificate.
 24. Equitable grounds.
 25. Crown expenses.
 26. Forwarding a list of land escheated to Registrar General.
 27. Absence of Attorney General.

SCHEDULE.

CHAPTER 20.

ESCHEAT.

19 of 1886.
11 of 1899.
15 of 1905.
31 of 1908.
1 of 1922.

An Ordinance to provide for the appropriation of the casual revenue of the Crown arising from escheated estates, and to declare the law and practice in cases of Escheat.

[22ND DECEMBER, 1886.]

Preamble.

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WHEREAS by an Act of the Imperial Parliament passed in the Session holden in the 15th and 16th years of Her Majesty's Reign provision is made for the appropriation of any casual revenues arising within the Colonies or Foreign Possessions of the Crown (other than Droits of the Crown and Droits of the Admiralty) for or towards any public purposes within the Colonies or Possessions in which the same respectively may have arisen, and it is expedient to provide for the appropriation of such casual revenue, including the revenue to arise from the estates and effects of persons who have died intestate and without heirs or next of kin:

And Whereas it is necessary to establish a course of procedure in cases of escheat:

Short title.

1. This Ordinance may be cited as the Escheat Ordinance.

Appropriation to public purposes of casual revenue.

2. All the casual revenue of the Crown (other than droits of the Crown and droits of the Admiralty) arising within this Colony shall form part of the general revenue, and be appropriated as part of such revenue, and shall be applied to such public purposes as the Legislature shall from time to time think proper and direct, subject, however, as to revenue derived from escheats, to the provisions of this Ordinance.

Order by Governor in Council of payment to persons establishing claims there-to.

3. The Governor in Council may from time to time, after such appropriation, order the payment of any claim in respect of such casual revenues which, upon legal, equitable, or moral grounds, is established by any person to the satisfaction of the said Governor in Council, and thereupon the Governor may issue his warrant to the Accountant General for payment of the same out of the general revenue of the Colony. But no such claim shall be entertained after the expiration of five years from notice in the *Gazette* of such appropriation, nor unless three months' notice shall have been given in the said *Gazette* of the applicant's

* Her Majesty Queen Victoria.

intention to prefer such claim; and such notice shall state the place of residence of the claimant, and the grounds upon which, and the description of the property in respect of which, such claim is made, and any such notice or any order for payment of money or transfer of land made after any such notice given shall bar all other claims in respect of the same property which may be made subsequently to such order:

Provided that no claim shall be entertained by the Governor in Council in respect of any casual revenues consisting of moneys arising from the administration by the Official Administrator, under the provisions of the Administration of Estates Ordinance, and the Ordinances amending the same, of the estate of any person who has died intestate and without heirs or next-of-kin.

Cap. 45.

4. If any person preferring a legal or equitable claim to any money or land to be hereafter appropriated pursuant to the provisions of this Ordinance fails to prove any claim to the same, he may nevertheless, within three months after the rejection of his claim by the Governor in Council, present his petition to the Supreme Court, and a copy thereof shall be served on the Attorney General, in order that he may appear thereto; and if the said person verifies his claim by evidence to the satisfaction of the Court or Judge before whom the same shall be heard, the Court or Judge shall make such order in the premises, including any award of costs as justice shall require; and upon the application of such person, or any other claimant or person, or of the Attorney General, may vary such order from time to time as may be deemed expedient, and shall certify the same to the Governor in Council, to the intent that the claimant may have relief in the premises according to such order.

Petition to Supreme Court by claimant on failure to establish claim.

5. In any case where real property has by escheat or otherwise become part of the general revenue of the Colony, and by reason of any difficulty in procuring sale for the same or from any other cause, such property cannot be, or is not converted into money, the Governor may execute a deed of transfer thereof to the Accountant General for the time being, in the form set forth in Schedule A to this Ordinance annexed, and such deed shall be registered in the Office of the Registrar General and the property thereby transferred shall be held by the Accountant General and his successors for the public purposes of the Government, and shall be thereafter for that purpose let for hire, sold, or otherwise dealt with as the Governor may direct:

Transfer of escheated property to Accountant General or claimants.

Provided, however, that the Governor in Council, as herein-before provided, may from time to time after the appropriation of such real estate direct a transfer of the whole or any part thereof to be made to any person or persons who shall, under sections 2 or 3 of this Ordinance, establish a claim thereto, subject, however, to such terms, conditions and limitations as the Governor in Council may direct, and thereupon a transfer shall be made in the form set forth in Schedule B to this Ordinance.

Appointment
of Escheator.

6. The Governor may from time to time appoint a fit and proper person to be Escheator, and remove him, and appoint another person in his stead; and it shall be his duty to keep an account of all lands escheated, to ascertain and report all lands liable to escheat, and to keep an account of all costs and expenses incurred in or about the same and of all proceedings in respect thereof. And the said Escheator shall be an officer of the Supreme Court and shall receive such remuneration for his services as the Governor shall determine.

Payment of
fees, etc., to
Escheator.

7. The Governor may order, in such case as he shall see fit, that payment be made in advance, out of the general revenue, to the person appointed to act as Escheator, of any fees and costs incurred or paid, or to be paid, by him in the conduct of any case of escheat; and all such sums shall be duly accounted for by the said Escheator.

Chief Justice
to be Com-
missioner of
Escheat.

8. The Chief Justice, hereinafter called the Court, shall be Commissioner of Escheat within the Colony, and all proceedings necessary to be taken before the granting of lands and tenements, which may have escheated to the Crown, shall and may be had and taken before the said Judge as such Commissioner of Escheat as aforesaid.

In order to
escheat,
Attorney
General may
file a claim.

9. The Attorney General shall and may from time to time, whenever he shall think fit or be directed so to do, or be informed of any case in which lands or tenements have escheated or become forfeited to the Crown, file his claim on behalf of the Crown, in the form set forth in Schedule C to this Ordinance, or as near thereto as may be.

No escheat
after twenty
years'
possession.

10. No land shall be escheated to the Crown which has been in the undisturbed possession of any person or of such person and his predecessors for the term of twenty years immediately preceding the filing of any claim by the Attorney General.

11. After the Attorney General shall have filed his claim in the Supreme Court, a notice thereof in the form given in Schedule D, or in like manner, shall be affixed to the door of the Master's Office of the Supreme Court and three months' notice shall be given in the *Gazette* of the intended application, and a notice shall if possible be affixed to some portion of the lands claimed. Any person interested may enter an appearance at the Office of the Master of the Supreme Court, and the case shall not be heard unless such person has had due notice to the satisfaction of the Court. The Master of the Supreme Court shall keep a book in which appearances in cases under this Ordinance may be entered.

Notice of filing of claim by Attorney General.

12. At any sitting of the Supreme Court after the expiration of the three months' notice in the *Gazette* the Court may proceed to hear the case or adjourn the same. The Attorney General shall appear on behalf of the Crown and any person claiming to be entitled to the land may appear personally or by counsel, or solicitor. The Master of the Supreme Court shall in office hours inform any applicant as to when a case will probably be tried.

Hearing the cause.

13. (1) It shall be lawful for the Court, by summons under its seal and issued by the Master of the Court on the application of any party or at the instance of the Judge himself, to require the attendance before the Court or any officer thereof, at a time and place to be mentioned in such summons, of all such persons as it may think fit to examine in relation to any matter depending before the Court and to require all such persons to produce before the Court or officer all deeds, books, papers and writings relating to such matter and to examine such persons upon oath, or, in case of persons allowed to make affirmations or declarations in lieu of an oath, upon affirmation or declaration, as the case may require.

Attendance of persons.

(2) It shall be lawful for the Court or any officer appointed for that purpose, to administer such oath, affirmation or declaration, and every person required by such summons so to attend, who without reasonable cause, to be allowed by the Court, shall fail to appear according to the tenor of such summons, or shall refuse to be sworn or to make affirmation or declaration, as the case may be, or shall not make answer to all such questions as shall be lawfully put to him or her on such examination, or shall refuse or fail to produce before the Court or officer any such deed, book, paper or writing, being in, or under, his or her custody, possession or power, as shall be

lawfully required to be produced by him or her before the Court or officer, shall for such default of appearance, refusal to be sworn, or to make affirmation or declaration, or for not answering any such question as aforesaid or not producing such deed, book, paper or writing, incur and be liable to all such penalties, prosecutions, actions and suits, as a person might incur or be liable to for failing to appear or refusing to be sworn or to give evidence in any suit or matter depending in the Supreme Court, and the Court shall have the like powers, jurisdiction and authority for enforcing the attendance of persons summoned as aforesaid and for punishing persons failing to appear or refusing to be sworn, or to make affirmation or declaration, or to give evidence, or who are guilty of contempt, and generally for enforcing all orders made by the Court under any of the powers or authorities vested in it under this Ordinance, and otherwise in relation to the matters to be inquired into and done under this Ordinance as are, or shall be, vested in the Supreme Court for such purposes in relation to any suit or matter depending in such Court.

Affidavits
receivable
in evidence.

14. The Court may in its discretion receive in evidence affidavits, affirmations or declarations which may be made before the Master of the Supreme Court or before any person empowered to take affidavits receivable in evidence in the Supreme Court, and if it thinks fit it may by order under the seal thereof appoint and authorise any person, either generally or in any particular matter, to examine any witnesses who shall attend before such person in Sierra Leone or elsewhere out of the Colony, in relation to any application to a matter depending before the Court, and to administer an oath or take affirmations or declarations for the purpose of such examination, but the deponent, affirmant or declarant in every such case shall, on the application of any other party interested in the facts deposed to, be subject to be cross-examined by, or on behalf of, such other party orally in open Court or before any person appointed to take such examination, and after such cross-examination may be re-examined orally in open Court or before such person as aforesaid:

Provided, however, that nothing herein contained shall render necessary the proof by oath or affidavit or declaration of the execution of any document which, but for this provision, would be receivable as *prima facie* evidence upon investigation of any title or other proceeding.

Compulsory
attendance of
witnesses.

15. It shall be lawful for the Court to enforce the attendance of witnesses and to have such witnesses examined and evidence

taken in any matter depending before it, whether by commission or otherwise, before such person or persons or such tribunal, as under any Statute or Ordinance now in force in this Colony or hereafter to be enacted the Supreme Court may have evidence taken and received.



16. Every person who upon oath, affirmation or declaration before the Court, or any person appointed and authorised under this Ordinance by the Court or by any general or special order thereof to administer such oath, affirmation or declaration, shall within this Colony wilfully give false evidence, and every person who shall within this Colony wilfully swear, affirm or declare falsely in any affidavit authorised under this Ordinance, to be received in evidence in the Court, shall be deemed guilty of perjury and be liable to the pains and penalties of perjury.

False oath or affirmation to be perjury.

17. The Registrar General is hereby required at all times, upon notice to that effect from the Court, to attend the Court either in person or by clerk or deputy and to produce all or any of the records or registers of his office and, when such notice is given on behalf of any party to a proceeding, such party shall pay the costs of such attendance and production.

Attendance of Registrar General.

18. At the hearing at the expiration of the period fixed, and upon being satisfied that all other requirements have been complied with, the Court shall have full power either to make or refuse to make a declaration vesting the lands in question in the Crown by way of escheat and shall make or withhold its certificate accordingly.

Declaration vesting lands in the Crown by way of escheat.

19. A certificate vesting the land in question in the Crown, as in the foregoing section mentioned, shall have the like force and effect and be valid to all intents and purposes as if an inquest had been duly holden and the verdict of a jury duly summoned had been given in favour of the Crown in respect of the lands aforesaid:

Effect of certificate of Judge.

Provided always that any person claiming title to land respecting which the certificate in favour of the Crown shall have been made as aforesaid, may traverse the finding of the Court and appeal therefrom in the mode hereafter pointed out. The certificate shall be in the form in Schedule E.

20. A copy of the certificate vesting the land in the Crown shall be affixed to the door of the Office of the Master of the Supreme Court and a notice of the issue of the certificate shall,

Notification of certificate vesting lands.

if possible, be affixed to some portion of the land and shall be published in the next issue of the *Gazette*. Such notice, which shall be in the form set forth in Schedule F, or as near thereto as circumstances permit, and shall be signed by the Attorney General, shall state that any person who appeared at the hearing may within three months, and any person who makes affidavit to the Court that he was unaware of the hearing of the case may, within six months from the date of the certificate of the Court, make application for leave to appeal to the West African Court of Appeal and that if no such application has been filed within the aforementioned times the land shall vest indefeasibly in the Crown.

Land
escheated to
form part of
general
revenue.

21. After the certificate shall have become indefeasible by reason of no appeal against the decision of the Court being entered or by reason of an appeal, if entered, not being sustained, the property escheated shall form part of the general revenue and be subject to be dealt with, disposed of, and appropriated according to the provisions hereinbefore contained for that purpose.

Governor
may appoint
assessors.

22. The Governor is hereby empowered to appoint, if he shall deem it necessary, one or more assessors of escheated lands, in order that a proper value may be set on such as shall from time to time be offered for sale or otherwise disposed of; and for every certificate of value given by an assessor such a fee shall be paid as to the Governor shall appear reasonable.

Report in
favour of
persons
equitably
entitled, to be
annexed to
certificate.

23. In every case where any land shall have been declared by the Supreme Court to be vested in the Crown by way of escheat or otherwise, the Judge of the Court is hereby required to annex to such declaration a report pointing out the person or persons, if any, who may in his opinion be entitled on equitable grounds to the favourable consideration of the Governor, or he may make such recommendations as will in his opinion meet the justice of the case; and such report shall thereupon be signed by the Judge and transmitted to the Governor, who is hereby authorised to take such steps in the matter and give such directions for carrying out the recommendations contained in the report aforesaid, or otherwise, as he shall think proper.

Equitable
grounds.

24. The equitable grounds in the last section referred to shall include those arising from the continued peaceable possession by persons who, not having any knowledge or notice of the escheat, have, previous to the passing of this Ordinance,

purchased *bona fide*, and for a fair and reasonable value from others who might be presumed to be entitled as rightful owners, or arising from the continued peaceable possession by the husband or widow, illegitimate children, or grandchildren of a deceased owner:

Provided always that no recommendation for consideration on equitable grounds shall be made except in special cases to be expressly reported by the Judge, unless the claim to the land shall have been duly filed and preferred under section 3.

25. One-fourth part of the assessed value or proceeds of sale of escheated lands shall be reserved to meet and reimburse the costs, charges, and expenses attendant upon proceedings taken in the Supreme Court for the purpose of obtaining declarations of title vesting escheated lands in the Crown.

Crown expenses.

26. A list of all lands declared to be vested in the Crown by escheat shall be from time to time published in the *Gazette*, and in such other manner as the Court may direct, and be forwarded by the Clerk of the Court to the Registrar General, and the said Registrar General is thereupon authorised and required to refuse to register any deed or instrument relating to any of the said lands unless and until a grant from the Crown of such lands, subsequent to such escheat, shall have been produced and registered.

Forwarding of list of land escheated to Registrar General.

27. In case of the absence, illness, or other incapacity of the Attorney General, the Governor may, for the purposes of this Ordinance, appoint some other fit and proper person to act in his stead.

Absence of Attorney General.

SCHEDULE A.

Section 5.

A.B.
Governor.

Colony of Sierra Leone.
(L.S.)

I, A.B., Governor (or officer administering the Government) or the Colony of Sierra Leone, by virtue of the Escheat Ordinance and on behalf of Her Majesty, do grant and transfer unto C.D., Accountant General, and his successors in the said office, all that [*here describe the property*], which premises have lately, under and by virtue of a certificate of title, duly made by the Judge of the Supreme Court, as appears by certificate No..... dated.....19..... become vested in Her Majesty; to have and to hold the same unto the said C.D., Accountant General, as aforesaid, and to his successors in the said office, but upon trust to apply and dispose of the same for the public uses of the Colony of Sierra Leone, or otherwise, as may be directed by the Governor in Council.

In witness whereof I, the said A.B. (Governor, etc.), of the Colony of Sierra Leone, have hereto set my hand and caused the public seal of the said Colony to be affixed the.....day of.....19....

By Command,

SCHEDULE B.

Section 5.

Colony of Sierra Leone.

I, A.B., Accountant General, by virtue of the Escheat Ordinance and by direction of the Governor in Council of the said Colony, do grant and transfer unto C.D. of.....and his heirs all that [here describe the property], which premises have lately by certificate of title duly made by the Supreme Court, as appears by certificate No.....dated.....19.... become vested in the Crown; To hold the same unto the said C.D., his heirs and assigns for ever [or as may be directed].

In witness whereof I have hereunto set my hand and seal this.....day of.....19....

Signed, sealed, and delivered } Accountant General. in the presence of

Section 9.

SCHEDULE C.

Form of claim under section 9 [to be filed in the Supreme Court].

Take notice that I [A.G. or acting as the case may be] on behalf of the Crown claim to be entitled to all that piece of land [here describe as accurately as possible the same] and I declare that I am not aware of any mortgage, encumbrances or claim affecting the said land or that any person hath any claim, estate or interest in the said land at law or in equity in possession or expectancy other than is set forth and stated as follows [here state the particulars, if any, of encumbrance].

(Signed)

A.B., A.G. or acting A.G., or as the case may be.

Date.

N.B.—In cases where under sections 18 and 19 of this Ordinance a declaration or certificate in favour of the Crown may be asked, the form may be varied to claim under the provisions of sections 18 and 19 an order entitling the Crown to possession of the lands herein by boundaries, as far as may be set out [or words of similar import].

Section 11.

SCHEDULE D.

Notice to be affixed at door of Master's Office, Supreme Court, published in the Gazette, and if possible affixed to the lands claimed.

Take notice that I,[A.G. or acting A.G., or as the case may be] have this day [filed a claim, asked for an order for a declaration in favour of the Crown, as the case may be] to this land [here describe it as accurately as possible]. After the expiration of three months from the date the cause may be heard in the Supreme Court. Any person interested may appear and in default the property may be [escheated or declared under sections seventeen and eighteen of the Escheat Ordinance to belong to the Crown]. Any person interested in the property may enter an appearance at the Office of the Master

of the Supreme Court and no case will be heard without, to the satisfaction of the Court, due notice of such intended hearing shall have been served on the person who has so appeared.

SCHEDULE E.

Section 19.

COMMISSIONER OF ESCHEATS' COURT TO WIT.

I hereby certify that having heard the evidence in the case I adjudge that [here set out the land] [has escheated to or become the property of the Crown, as the case may be].

(Signed)

A.B.

Judge of Supreme Court and
Commissioner of Escheat.

Date

SCHEDULE F.

Section 20.

Notice to be affixed if possible to some portion of the land escheated and to be published in the *Gazette*:—

The Chief Justice of the Supreme Court having issued a certificate under his hand dated the.....day of.....that the lands (or such portion of them as is set out in the certificate) claimed by the Attorney General in a notice dated the.....day of.....are vested in the Crown by way of Escheat:

Notice is hereby given that any person who appeared at the hearing may within three months, and any person who makes affidavit to the Court that he was unaware of the hearing of the case may within six months, make application for leave to appeal to the West African Court of Appeal. If no such application has been filed within the aforementioned times the land shall vest indefeasibly in the Crown.

Attorney General.

SCHEDULE G.

Section 7.

FEEs.

Scale of fees to be taken by the Master of the Supreme Court under this Ordinance.

	£	s.	d.
Filing claim or any other application	0	2	6
Filing counter-claim or giving notice of appearance	0	2	6
Hearing fee	0	5	0
Every summons containing not more than four names	0	2	6
Every witness sworn	0	1	0
Every order or exhibit filed	0	1	0
Every order	0	5	0
Every office copy of any document first five folios, per folio of 100 words	0	5	0
For every folio or part folio after the first five	0	0	6
For taxation of costs and any other Court or office business not before mentioned, such other fees as shall be ordered by the Court.			
<i>Fee to be taken by Registrar General—</i>			
Attendance of Registrar General or clerk or deputy and production of records at the request of a party	0	5	0