

BILL

EVIDENCE BILL, 2025 AGGRANGEMENT OF SECTIONS

Section No.

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A BILL ENTITLED

Short title

Evidence Act, 2025.

Being an Act to modernise and consolidate the law relating to evidence and to provide for other matters connected therewith.

Date of
commencement.

[]

ENACTED by the President and Members of Parliament in this present Parliament assembled.

PART 1—PRELIMINARY

Application of
Act to courts,
etc.

- 1.** This Act shall apply to all courts in Sierra Leone except to a local court and administrative and judicial tribunal.

Civil &
criminal
proceedings.

Application of
Act vis a vis
other
enactment.

Interpretation

2. This Act shall apply to both criminal and civil proceedings.

3. Nothing in this Act shall affect the application of any provision dealing with evidence in any other enactment.

4. In this Act, unless the context otherwise requires:

“action” means every suit, proceeding or other matter conducted before a court;

“bank” means any person, persons, partnership or company carrying on the business of banking;

“bankers’ books” includes any ledger, day book, cash book, account book and any other book used in the ordinary business of the bank, whether in written form or micro-film, magnetic tape or any other form of mechanical or electronic data retrieval mechanism whether kept in written form or printouts or electronic form;

“character” means a person’s generalised disposition made up of the aggregate of his traits, including traits of honesty, peacefulness, temperance, skill or care and their opposites;

“computer” means any device that receives, stores and processes data, or information applying stipulated processes to the data and supplying results of that data or information; and any reference to information being derived from other information shall be construed to include a reference to its being derived therefrom by calculation, comparison or any other process;

“Constitution” means the Constitution of Sierra Leone, 1991;

“court” means any court of law in Sierra Leone other than a local court and includes all judges and magistrates, and persons, except arbitrators, legally authorized to take evidence;

“defective memory” means any impairment of the function of the brain which is transitory, enduring or associated with a disease of the brain;

“document” includes:

- (a) books, maps, plans, graphs, drawings and photographs;
- (b) any disc, tape, sound track or other device in which sound or other data (not being visual images) are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom;

- (c) any film, negative, tape or other device in which one or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom; and
- (d) social media messages, emails, text messages and any other messaging application including audio and video.
- (e) “evidence” denotes the means by which an alleged matter of fact, the truth of which is submitted to investigation, is proved or disproved; and, without prejudice to the foregoing generality, includes statements by accused persons, admissions, and observation by the court in its judicial capacity;

“expert” means a person with extensive knowledge or ability based on research, experience, or occupation and in a particular area of study;

“facts in issue” include:

- (a) all facts which, by the form of the pleadings in any action or other proceeding, are affirmed on one side and denied on the other; and
- (b) in actions or other proceedings in which there are no pleadings, or in which the form of the pleadings is such that distinct issues are not joined between the parties, all facts from the establishment of which the existence, non-existence, nature or extent of any right, liability or disability, asserted or denied, in any such case would by law follow;

“husband” and “wife” means the husband and wife of a marriage, whether or not monogamous, which is by law binding during the lifetime of both parties unless dissolved according to law, and includes a marriage under customary law.

“Judge” includes all persons authorised to take evidence, either by law or by consent of parties;

“legal practitioner” means any person admitted and enrolled to practice law as a barrister and solicitor;

“marriage” means a marriage, whether monogamous or otherwise, whether customary, Muslim, Christian or Civil, which is by law binding during the lifetime of the parties thereto unless dissolved according to law;

“Minister” means **(has to be defined in light of section 10”;**

“oppression” includes the use or threat of torture, inhuman or degrading treatment and the use of threat of violence whether or not amounting to torture against the person making the confession. It also includes threat of violence to wife or husband of the person who is to make the confession and any confession obtained by fraud or any sort of inducement;

“proceedings” includes arbitral proceedings, references and commissions of inquiry;

“public records” includes

- (a) published works dealing with matters of a public nature (such as histories, scientific works, dictionaries and maps)
- (b) public documents (such as public registers, government gazette, official government statements and responses) or
- (c) records (such as court records, judgments, treaties, pardons and commissions)

“public service” means **(has to be defined in light of section 10)**.

“returns” means XXXXXXXXXX

“spouse” means

- (a) a person married to the intestate or the testator;

- (b) an unmarried person who has cohabited with an another unmarried person as if he or she were in law his wife or husband for a period of not less than five years immediately preceding the death of the intestate or testator;

“Revenue officer” means any officer employed in or about the business of any branch of the public revenue, including any branch of the income tax, revenue, customs or excise departments;

“statement” includes any representation of fact, whether made in words or otherwise;

“tribunal” means an officer or body with the authority to pronounce judgment on a matter based upon the evidence.

PART II—COMPETENCE AND COMPELLABILITY

Competency generally.

5.(1)Every person shall be competent to testify unless the court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, due to tender years, extreme old age, disease (whether of body or mind) or any similar cause.

(2) A mentally disordered person or a lunatic is not incompetent to testify unless he is prevented by his condition from

understanding the questions put to him and giving rational answers to them.

Dumb witness.

6. (1) A witness who is unable to speak may give his evidence in writing or by signs and where evidence is given in such manner it must be done in open court.

(2) Without derogation from subsection 1 the court may utilise any other method to obtain evidence from a witness who is unable to speak provided the evidence is adduced in open court.

(3) Evidence so given under subsections 1 and 2 shall be deemed to be oral evidence.

Competency of parties and spouses.

7.(1) Subject to any law relating to the giving of evidence in Court, a person charged with an offence and the spouse or cohabiting partner of that person shall be a competent witness for the defence at every stage of the proceedings, whether the person charged is charged solely or jointly with any other person.

(2) Notwithstanding subsection (1) a person charged with an offence shall not –

- a. be called as a witness under this Act except upon his own application; or
- b. be made the subject of a comment by the prosecution on account of the failure of him, his spouse or cohabiting partner, as the case may be, to give evidence.

(3) A spouse or cohabiting partner of a person charged with an offence shall not be –

- (a) called as a witness under this Act except upon the application of the person so charged;
- (b) compellable to disclose communication made to each other during the marriage or cohabitation.

(4) A person charged with an offence and being a witness may be asked any question in cross-examination, notwithstanding that it would tend to incriminate him as to the offence charged.

(5) A person charged with an offence and called as a witness shall not be asked, and if asked shall not be required to answer, a question tending to show that he has committed or been convicted of or been charged with an offence other than that for which he has been charged or is of bad character, unless-

- (a) the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence charged;
- (b) he has personally or by his counsel –
 - i. asked questions of the witnesses for the prosecution with a view to establishing his own good character;
 - ii. given evidence of his good character; or
 - iii. invited imputations on the character of the prosecutor or the witnesses for the prosecution; or
- (c) he has given evidence against another person charged with the same offence.

(6) A person called as a witness under this Act or any other law shall, unless otherwise ordered by the Court, give his evidence from the witness box or other place from which the other witnesses gave their evidence.

(7) A person charged with an offence may, notwithstanding subsections (1) to (6), make a statement without being sworn.

Spouse shall be competent and Compellable witness.

- 8.** In criminal proceedings the wife or husband of the person charged shall be a competent and compellable witness for the prosecution or defence without the need of the consent of such person, in any case where such person is charged–
- (a) with the offence of bigamy;
 - (b) in respect of an act or omission affecting the person or property of the wife or husband of such person or the children of either of them, and not otherwise;
 - (c) with inflicting violence on his wife or her husband.

Communications during marriage.

- 9.** No person shall be compelled by the other spouse to disclose any communication made to him or her during and after marriage or cohabitation; nor shall a person be permitted to disclose such communication without the consent of the person who made it, or of his representative in interest, except in suits between the parties to the marriage or cohabitation or in any of the cases mentioned in section 8.

Privilege relating official records.

- 10.** Whenever it is stated on oath (whether by affidavit or otherwise) by a Minister that he has examined the contents of any document forming part of any unpublished official records, the production of which document has been called for in any proceedings, and that he is of the opinion that such production would be prejudicial to the public service, either by reason of the content thereof or of the fact that it belongs to a class which, on grounds of public policy,

should be withheld from such production, the document shall not be admissible.

Privilege of official communications

- 11.** No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interests would suffer by the disclosure:

Provided that the public officer concerned shall, on the order of the court disclose to the judge alone in chambers the substance of the communication in question; and if the judge is satisfied that the communication should be received in evidence this shall be done in private.

Privilege relating to information of commission of offences.

- 12.** No magistrate, police officer or any other public officer authorised to investigate or prosecute offences under any written law shall be compelled to disclose the source of any information as to the commission of an offence which he is so authorised to investigate or prosecute and no public officer employed in or about the business of any branch of the public revenue, shall be compelled to disclose the source of any information as to the commission of any offence against the public revenue.

Privilege of legal practitioners.

- 13.** (1) Except specifically authorised by law, no legal practitioner shall at any time be permitted, unless with his client's express consent, to disclose any communication made to him in the course of and for the purpose of his employment as such legal practitioner, by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course of and for the purpose of such employment:

Provided that nothing in this section shall protect from disclosure—

- (a) Any communication made in furtherance of any illegal purpose;
- (b) Any communication made of abuse of children and young persons;
- (c) Any fact observed by any legal practitioner in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment, whether the attention of such legal practitioner was or was not directed to the fact by or on behalf of his client.

- (2) The protection given by subsection (1) shall continue after the employment of the legal practitioner has ended.

(3) The provisions of this section shall apply to interpreters, and the clerks or servants of the legal practitioner.

(4) If any party to a suit or proceedings gives evidence therein at his own instance or otherwise, he shall not be deemed to have consented thereby to such disclosure as is mentioned in sub section (1).

(5) If any party to a suit or proceedings calls any legal practitioner, interpreter, clerk or servant as a witness, he shall be deemed to have consented to such disclosure as is mentioned in sub section (1) only if he questions such witness on matters which, but for such question, the witness would not be at liberty to disclose.

(6) No one shall be compelled to disclose to the court any confidential communication which has taken place between him and his legal practitioner unless he offers himself as a witness, in which case he may be compelled to disclose any such communication as may appear to the court necessary to be known in order to explain any evidence which he has given, but no others.

Privilege of court.

14. Except upon the special order of the High Court no magistrate, or other persons before whom a proceeding is being held shall be compelled to answer any questions as to his own conduct in court in any of the capacities specified in this section or as to anything which came to his knowledge in court in such capacity but he may be examined as to other matters which occurred in his presence whilst he was so acting.

Evidence as to state of affairs.

15. (1) Subject to any direction of the President in any particular case, no one shall be permitted to produce any unpublished official records relating to affairs of State, or to give any evidence derived from such record except with the permission of the officer at the head of the Ministry, Department or Agency concerned who shall give or withhold such permission as he thinks fit:

Provided that the head of the Ministry, Department or Agency concerned shall, on the order of the court produce to the judge the official record in question or, as the case may be permit evidence derived from it to be given to the judge alone in chambers; and if the judge after careful consideration shall decide that the record or the oral evidence, as the case may be should be received as evidence in the proceeding he shall order this to be done in private.

Statement in a document marked without prejudice statement.
without prejudice.

16. A statement in any document marked "without prejudice" made in the course of a settlement of a dispute out of court, shall not be

given in evidence in in civil proceeding in proof of the matters stated in it.

Title deeds and incriminating documents in hands of third party.

17.No witness who is not a party to the suit shall be compelled to produce his title deeds to any property, or any document by virtue of which he holds any property as pledgee or mortgagee, or any document the production of which might tend to incriminate him, unless he has agreed in writing with the person seeking the production of such deeds or document, or with some person through whom he claims, to produce them.

Privileged document in possession of another.

18. No one shall be compelled to produce documents in his possession, which any other person would be entitled to refuse to produce if they were in his possession, unless such other person consents to their production.

Bankers' books.

19. A banker or an officer of a bank or other financial institution shall not, in any legal proceeding to which the bank or financial institution is not a party be compellable to produce any banker's book or financial book the contents of which can be proved in the manner provided in **sections 208 and 209 of this Act**, or to appear as a witness to prove the matters, transactions and accounts recorded in such book, unless by order of the court made for special cause.

Accomplices.

20. An accomplice shall be a competent witness against an accused person and a conviction shall not be illegal merely because it proceeds upon the uncorroborated evidence of the accomplice.

Privileges to exclude oral evidence of documents.

21.No person who is entitled to refuse to produce a document shall be compelled to give oral evidence of its contents.

Number of witnesses.

22.No particular number of witnesses shall, in the absence of any provision of law to the contrary, be required for the proof of any fact in issue in the proceedings.

Competence and compellability of child witnesses.

23.(1)The competence and compellability of child witnesses shall be governed by the provisions relating to evidence of children in the Children and Young Persons Act, Chapter 44 of the Laws of Sierra Leone, 1960.

(2) Special measures applicable to children in respect of sexual offences under the Sexual Offences Act, 2012 shall also apply to persons with defective memory.

Competence of persons with defective intellect.

24.The test of competency and compellability of persons with defective intellect to give evidence shall be whether such persons understand

questions put to them and can give answers that can be understood.

Compellability of
ordinary witnesses

- 25.** A witness shall not be excused from answering any question as to any matter relevant to the matter in issue in any suit or in any civil or criminal proceeding, upon the ground that the answer to such question will incriminate, or may tend directly or indirectly to incriminate, such witness, or that it will expose, or tend directly or indirectly to expose such witness to a penalty or forfeiture of any kind, but no such answer which a witness is compelled to give shall subject him to any arrest or prosecution, or be proved against him in any criminal proceeding, except a prosecution for giving false evidence by such answer.

PART III—RELEVANCE AND ADMISSIBILITY

Evidence may be
given of facts in issue
and relevant facts.

- 26.**(1) Evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue and of such other facts as are hereafter declared to be relevant, and of no others provided that:
- (a) the court may exclude evidence of facts which though relevant or deemed to be relevant to the issue, appears to it to be too remote to be material in all the circumstances of the case; and
 - (b) this section shall not enable any person to give evidence of a fact which he is disentitled to prove by any provision of the law for the time being in force.
- (2) For the avoidance of doubt, all evidence given in accordance with subsection 1 shall, unless excluded in accordance with this or any other Act in force in Sierra Leone, be admissible in judicial proceedings to which this Act applies:

Provided that admissibility of such evidence shall be subject to all such conditions as may be specified in each case by or under this Act.

- (3) Nothing in this Act shall prejudice the admissibility of any evidence that is made admissible by any other legislation in force in Sierra Leone.

PART IV – RELEVANCE OF FACTS

Relevancy of facts
forming part of same
transaction.

- 27.** Facts which, though not in issue are so connected with a fact in issue as to form part of the same transaction are relevant whether they occurred at the same time and place or at different times and places.

Facts which are
the occasion,
cause or effect of
facts in issue, etc.

28. Facts which are the occasion, cause or effect, immediate or otherwise, of relevant facts or facts in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction are relevant.

Facts showing motive or preparation; conduct influencing or influenced by a fact in issue or relevant fact.

29. (1) Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.

(2) The conduct, whether previous or subsequent to any proceeding:-

(a) of any party to any proceeding, or an agent to such party, in reference to such suit or proceeding or in reference to any fact in issue in it or a fact relevant to it; and

(b) of any person an offence against whom is the subject of any proceeding is relevant in such proceedings if such conduct influences or is influenced by any fact in issue or relevant fact.

(3) The word "conduct" in this section does not include statements, unless those statements accompany and explain acts other than statements but this provision shall not affect the relevance of statements under any other section.

(4) When the conduct of any person is relevant, any statement made to him or in his presence and hearing which affects such conduct is relevant.

Facts necessary to explain or introduce relevant facts.

30. Facts--

(a) necessary to explain or introduce a fact in issue or relevant fact;

(b) which support or rebut an inference suggested by a fact in issue or relevant fact;

(c) which establish the identity of anything or person whose identity is relevant;

(d) which fix the time or place at which any fact in issue or relevant fact happened; or

(e) which show the relation of parties by whom any such fact was transacted; are relevant in so far as they are necessary for that purpose.

Things said or done by conspirator in reference to common design.

31. (1) Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done or written by any one of such

persons in execution or furtherance of their common intention, after the time when such intention was first entertained by one of them, is a relevant fact as against each of the persons believed to be so conspiring, for the purpose of proving the existence of the conspiracy as well as for the purpose of showing that any such person was a party to it.

(2) Notwithstanding subsection (1), statements made by individual conspirators as to measures taken in the execution or furtherance of such common intention are not deemed to be relevant as such as against any conspirator, except those by whom or in whose presence such statements are made.

(3) Evidence of acts or statements deemed to be relevant under this section may not be given until the court is satisfied that, apart from them, there are prima facie grounds for believing the existence of the conspiracy to which they relate.

When facts not otherwise relevant become relevant.

32. Facts not otherwise relevant are relevant if –

- (a) they are inconsistent with any fact in issue or relevant fact; and
- (b) by themselves or in connection with other facts they make the existence or nonexistence of any fact in issue or relevant fact probable or improbable.

In suit for damages, facts tending to enable court to determine amount are relevant.

33. In proceedings in which damages are claimed, any fact which will enable the court to determine the amount of damages which ought to be awarded is relevant.

Facts showing existence of state of mind or of body or bodily feeling.

34. (1) Facts showing the existence of—

- (a) any state of mind such as intention, knowledge, good faith, negligence, rashness, ill-will or goodwill towards any particular person: or
 - (b) any state of body or bodily feeling;
- are relevant when the existence of any such state of mind or body or bodily feeling is in issue or relevant.

(2) A fact relevant as showing the existence of a relevant state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question.

Facts bearing on question of whether act was accidental or intentional.

35. When there is a question whether an act was accidental or intentional, or done with a particular knowledge or intention or to rebut any defence that may otherwise be open to the defendant, the fact that such act formed part of a series of similar occurrences in each of which the person doing the act was concerned, is relevant.

Existence of course of business, when relevant.

- 36.**When there is a question whether a particular act was done, the existence of any course of business according to which it naturally would have been done, is a relevant fact.

PART V - RELEVANCE AND ADMISSIBILITY OF CERTAIN EVIDENCE

Improperly Obtained Evidence

Discretion to exclude improperly obtained evidence .

37. Evidence obtained-

- (a) improperly or in contravention of a law; or
- (b) in consequence of an impropriety or of a contravention of a law;
shall be admissible unless the court is of the opinion that the desirability of admitting the evidence is outweighed by the undesirability of admitting the evidence that has been obtained in the manner in which the evidence was obtained.

Matters for court to take into account under section 37.

38.For the purposes of **section 37**, the matters that the court shall take into account include—

- (a) the probative value of the evidence;
- (b) the importance of the evidence in the proceeding;
- (c) the nature of the relevant offence, cause of action or defence and the nature of the subject-matter of the proceeding;
- (d) the gravity of the impropriety or contravention;
- (e) whether the impropriety or contravention was deliberate or reckless;
- (f) whether any other proceeding (whether or not in a court) has been or is likely to be taken in relation to the impropriety or contravention; and
- (g) the difficulty, if any, of obtaining the evidence without impropriety or contravention of law.

What customs are admissible.

Customs

- 39.**(1) A custom may be adopted as part of the law governing a particular set of circumstances if it can be judicially noticed or can be proved to exist by evidence.

(2) The burden of proving a custom shall lie upon the person alleging its existence.

Judicial notice of custom.

- 40.**A custom may be judicially noticed when it has been adjudicated upon once by a superior court of record.

Evidence of custom.

- 41.**(1) Where a custom cannot be established as one judicially noticed, it shall be proved as a fact.

(2) Where the existence or the nature of a custom applicable to a given case is in issue, there may be given in evidence the opinions of persons who would be likely to know of its existence **in accordance with section 94.**

(3) In any judicial proceeding where any custom is relied upon, it shall not be enforced as law if it is contrary to public policy or is not in accordance with natural justice, equity and good conscience.

Relevant facts as to how matter alleged to be custom understood.

42. Every fact is deemed to be relevant which tends to show how in particular instances a matter alleged to be a custom was understood and acted upon by persons then interested.

Admission defined.

43. An admission is a statement, oral or documentary, or conduct which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and in the circumstances, mentioned in this Act.

Admission by privies.

44.(1) Statements made by a party to the proceeding or by an agent of any such party, whom the court regards in the circumstances of the case, as expressly or impliedly authorised by him to make them, are admissions.

(2) Statements made by parties to suits, suing or sued in a representative capacity, are not admissions unless they were made while the party making them held that capacity.

Admission by party to proceeding or his or her agent; by party in representative character; by party interested in subject matter.

45. Statements made by persons:

- (a) who have any proprietary or pecuniary interest in the subject-matter of the proceedings and who made the statements in their character of persons so interested; or
- (b) from whom the parties to the suit have derived their interest in the subject matter of the suit;

are admissions if they are made during the continuance of the interest of the person making the statements.

Admissions by persons whose position must be proved as against party to suit.

46. Statements made by persons whose position or liability it is necessary to prove as against any party to the suit are admissions if such statements would be relevant as against such persons in relation to such position or liability in a suit brought by or against them and if they are made whilst the person making them occupies such position or is subject to such liability.

Admissions by person expressly referred to by party to suit.

- 47.** Statements made by persons to whom a party to the suit has expressly referred for information in reference to a matter in dispute are admissions.

Admissions

Proof of admissions against persons making them, and by or on their behalf.

- 48.** Admissions are relevant and may be proved as against the person who makes them or by his representative in interest, but they cannot be proved by or on behalf of the person who makes them or by his representative in interest except in the following cases:-

- (c) an admission may be proved by or on behalf of the person making it when it is of such a nature that, if the person making it cannot be called as a witness, it would be relevant as between third parties;
- (d) an admission may be proved by or on behalf of the person making it when it consists of a statement of the existence of any state of mind or body, relevant or in issue, made at or about the time when such state of mind or body existed, and is accompanied by conduct rendering its falsehood improbable; and
- (e) an admission may be proved by or on behalf of the person making it, if it is relevant otherwise than as an admission.

When oral admissions as to contents of documents are relevant.

- 49.** Oral admissions as to the contents of a document are not relevant, unless and until the party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such document or unless the genuineness of a document produced is in question.

Admissions in civil cases, when relevant.

- 50.** In civil cases no admission is relevant, if it is made either upon an express condition that evidence of it is not to be given, or in circumstances from which the court can infer that the parties agreed together that evidence of it should not be given:

provided that nothing in this section shall be taken to exempt any legal practitioner from giving evidence of any matter of which he may be compelled to give evidence **under section 13.**

Admissions not conclusive proof, but may be stop.

- 51.** Admissions are not conclusive proof of the matters admitted but they may operate an estoppel.

CONFESSIONS

Confession defined.

- 52.** A confession comprises words or conduct, or a combination of words and conduct, from which, whether taken alone or in conjunction

with other facts proved, an inference may reasonably be drawn that the person making it has committed an offence.

When confession is relevant.

53.(1) In any proceeding, a confession made by a defendant may be given in evidence against him in so far as it is relevant to any matter in issue in the proceedings and is not excluded by the court in pursuance of this section.

(2) If, in any proceeding where the prosecution proposes to give in evidence a confession made by a defendant, it is represented to the court that the confession was or may have been obtained:

- (a) by oppression of the person who made it; or
- (b) in consequence of anything said or done which was likely, in the circumstances existing at the time, to render unreliable any confession which might be made by him in such consequence;

the court shall not allow the confession to be given in evidence against him except in so far as the prosecution proves to the court beyond reasonable doubt that the confession (notwithstanding that it may be true) was not obtained in a manner contrary to the provisions of this section.

(3) In any proceeding where the prosecution proposes to give in evidence a confession made by a defendant, the court may of its own motion require the prosecution as a condition of allowing it to do so to prove that the confession was not obtained as mentioned in either subsection (2)(a) or (b).

(4) Where more persons than one are charged jointly with an offence and a confession made by one or more of such persons in the presence of one or more of the other persons so charged is given in evidence, the court shall not take such statement into consideration as against any of such other persons in whose presence it was made unless he adopted the said statement by words or conduct.

(5) In this section “oppression” includes torture, inhuman or degrading treatment, and the use or threat of violence whether or not amounting to torture.

Facts discovered in consequence of information given by defendant.

54.Where information is received from a person who is accused of an offence, whether such person is in custody or not, and as a consequence of such information any fact is discovered, the discovery of that fact, together with evidence that such discovery was made in consequence of the information received from the defendant may be given in evidence where such information itself would not be admissible in evidence.

Confessions and admissions caused by inducement, threat or promise.

55. A confession or any admission of a fact tending to the proof of guilt made by an accused person is not admissible in a criminal proceeding if the making of the confession or admission appears to the court to have been caused by any inducement, threat or promise having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

Confession made after removal of impression caused by inducement, threat or promise.

56. If such a confession as is referred to in **section 55** of this Act is made after the impression caused by any such inducement, threat or promise has, in the opinion of the court, been fully removed, it is admissible.

Admissibility of confession in another proceedings.

57. A confession made in one proceeding is admissible in another proceeding.

Acts in Relation to Land

Acts of possession and enjoyment of land may be evidence.

58. Acts of possession and enjoyment of land may be evidence of ownership or of a right of occupancy not only of the particular piece or quantity of land with reference to which such acts are done, but also of other land so situated or connected with it by locality or similar that what is true as to the one piece of land is likely to be true of the other piece of land.

Scienter

Evidence of scienter upon charge of receiving stolen property.

59. (1) Whenever any person is being proceeded against for receiving any property knowing it to have been stolen or for having in his possession stolen property for the purpose of proving guilty knowledge, there may be given in evidence at any stage of the proceeding—

- (a) the fact that other property stolen within the period of 12 months preceding the date of the offence charged was found or had been in his possession: and
- (b) the fact that within the 5 years preceding the date of the offence charged he was convicted of any offence involving fraud or dishonesty.

(2) The fact mentioned in subsection (1) (b) of this section may not be proved unless—

- (a) 7 days' notice in writing has been given to the offender that proof of such previous conviction is intended to be given: and
- (b) evidence has been given that the property in respect of which the offender is being tried was found or had been in his possession.

PART VI - HEARSAY, OPINION AND CHARACTER EVIDENCE: RELEVANCE AND ADMISSIBILITY

Hearsay Evidence Generally.

Hearsay defined.

60. Hearsay means a statement-

- (a) oral or written made otherwise than by a witness in a proceeding; or
- (b) recorded in a book, document or any record whatever proof of which is not admissible under any provision of this Act, which is tendered in evidence for the purpose of proving the truth of the matter stated in it.

Hearsay rule.

61. Hearsay evidence is not admissible except as provided in this Part or by or under any other provision of this or any other Act.

Statements by persons who cannot be called as witness.

62. Statements, whether written or oral of facts in issue or relevant facts made by a person--

- (a) Who is dead;
- (b) Who cannot be found;
- (c) Who has become incapable of giving evidence including by reason of mental and physical condition;
- (d) Whose attendance cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the court unreasonable; or
- (e) Whose attendance cannot be procured because of the witness' mental state not necessarily due to mental illness;

may be admissible under **section 63 to 74.**

Dying declaration.

63.(1) In a trial on indictment for murder or manslaughter, the declaration of a deceased person, whether it be made in the presence of the accused person or not as to the cause of death, or as to any of the circumstances of the events which resulted in his death in cases in which the cause of that person's death comes into question is admissible where the person who made it believed

himself to be in danger of approaching death although he may have entertained at the time of making it hopes of recovery.

(2) A statement referred to in subsection (1) shall be admissible whatever may be the nature of the proceeding in which the cause of death comes into question.

Proof of death.

64. Proof of death may be shown by the production of a death certificate or such other evidence as would satisfy the court.

STATEMENTS GENERALLY

Statements made in the course of business.

65. A statement made in a document where that document or part thereof containing the statement was created or received by a person in the course of a trade, business, profession or other occupation, or as the holder of a paid or unpaid office is admissible:

Provide that the statement is made contemporaneously with the transaction recorded or so soon thereafter that the court considers it likely that the transaction was at that time still fresh in his memory.

Statement against interest of maker with special knowledge.

66. A statement is admissible where the maker had peculiar means of knowing the matter stated and such statement is against his pecuniary or proprietary interest and-

- (a) he had no interest to misrepresent the matter; or
- (b) statement, if true, would expose him to either criminal or civil liability.

Statements of opinions as to public right or custom and matters of general interest.

67. (1) A statement is admissible when such statement gives the opinion of a person as to the existence of any public right or custom or matter of general interest, the existence of which, if it existed, the maker would have been likely to be aware.

(2) A statement referred to in subsection (1) shall not be admissible unless it was made before any controversy as to such right, custom or matter had arisen.

Statements relating to the existence of a relationship.

68. (1) Subject to subsection (2), a statement is admissible when it relates to the existence of relationship by blood, marriage or adoption between persons as to whose relationship by blood, marriage or adoption the person making the statement had special means of knowledge.

(2) A statement referred to in subsection (1) shall be admissible under the following conditions--

- (a) that it is deemed to be relevant only in a case in which the pedigree to which it relates is in issue, and not to a case in which it is only relevant to the issue, and
- (b) that it must be made by a declarant shown to be related by blood to the person to whom it relates, or by the husband or wife of such a person:

Provided that in proceeding for the determination of the paternity of any person, a declaration made by a person who, if an order were granted, would stand towards the petitioner in any of the relationships mentioned in paragraph (b) of this subsection, is deemed relevant to the question of the identity or the parents of the petitioner; and

- (c) that the statement must be made before the question in relation to which it is to be proved had arisen but it does not cease to be admissible because it was made for the purpose of preventing the dispute from arising.

Declarations by
testators.

- 69.** (1) The declarations of a deceased testator as to his testamentary intentions and as to the content of his will, are admissible when-
- (a) his will has been lost, and when there is question as to what were its contents; or
 - (b) the question is whether an existing will is genuine or was improperly obtained; or
 - (c) the question is whether any and which of more existing documents than one constitute his will.

(2) In the cases mentioned in subsection (1), it is immaterial whether the declarations were made before or after the making or loss of the will.

Admissibility of certain
evidence for proving, in
subsequent proceeding,
the truth of facts stated
in it.

- 70.** (1) Evidence given by a witness in a judicial proceeding, or before any person authorised by law to take it is admissible for the purpose of proving in a subsequent judicial proceeding or in a later stage of the same judicial proceeding the truth of the facts which it states when the witness cannot be called for any of the reasons specified under this Act or is kept out of the way by the adverse party:

Provided that:

- (a) the proceeding was between the same parties or their representatives in interest:

- (b) the adverse party in the first proceeding had the right and opportunity to cross-examine; and
- (c) the questions in issue were substantially the same as in the first as in the second proceeding.

(2) A criminal trial or inquiry shall be deemed to be a proceeding between the prosecutor and the defendant within the meaning of this section.

What evidence to be given when statement forms part of a conversation, document, electronic record, book or series of letters or papers.

71.When any statement of which evidence is given forms part of a longer statement or of a conversation or part of an isolated document or is contained in a document which forms part of a book or of a connected series of letters or papers, evidence shall be given of so much and no more of the statement, conversation, document, book or series of letters or papers as the court considers necessary in that particular case to the full understanding of the nature and effect of the statement and of the circumstances in which it was made.

Power to take depositions of persons dangerously ill.

72.When ever it appears to a Court that any person dangerously ill or hurt, and not likely to recover, is able and willing to give material information relating to any offence, and it shall not be practicable to take the statement or deposition of the person so ill or hurt in accordance with the provisions of Part III of the CPA 2024 in relation to summary trial or Part iv in relation to committal proceedings, the Court may take in writing the statement on oath or affirmation of such person, and shall subscribe the same, and certify that it contains accurately the whole of the statement made by such person, and shall add a statement of the reason for taking the oath, and of the date and place when and where it was taken, and shall preserve such statement and file it as part of the records of ensuing proceedings.

Statement of defendant at preliminary' Investigation or Coroner's inquest.

73.Any statement made by a defendant at committal proceedings or at a coroner's inquest or at a tribunal may be given as evidence.

Admission of written statements of investigating police officers in certain cases.

74.Notwithstanding anything contained in this Act or any other law but subject to this section, where in the course of any criminal trial, the court is satisfied that for any sufficient reason, the attendance of the investigating police officer cannot be procured, the written and signed statement of such officer may be admitted in evidence by the court if;

- (a) the defence does object to the statement being admitted; and

(b) the court consents to the admission of the statement.

Statements made in special circumstances entries in books of account.

75. Entries in books of accounts or electronic records regularly kept in the course of business are admissible whenever they refer to a matter into which the court has to inquire but such statements shall not alone be sufficient evidence to charge any person with liability.

Entry in public records made in performance of duty.

76. An entry in any public or other official books, register or record, including electronic record stating a fact in issue or relevant fact and made by a public servant in the discharge of his official duty, or by any other person in the performance of a duty specially enjoined by the law of the country in which such book, register or record is kept, is itself admissible.

Statements in maps, charts and plans.

77. Statements of facts in issue or relevant facts made in published maps or charts generally offered for public sale or in maps or plans made under the authority of Government, as to matters usually represented or stated in such maps, charts or plans, are themselves admissible.

Statement as to fact of public nature contained in certain acts or notifications.

78. When the court has to form an opinion as to the existence of any fact of a public nature, any statement of it made in a recital contained in any enactment or in any proclamation or speech of the President in opening Parliament, or in any proclamation or speech or in any statement made in a Government or public notice appearing in the Gazette or the Government Gazette of any other country is admissible.

Certain scientific report to be evidence.

79. (1) A document purporting to be a report under the hand of a medical practitioner, dental surgeon or chemist duly registered with the appropriate regulatory body or a forensic scientist or expert duly registered for that purpose, relating to the examination or analysis of-

- (a) a body, body part or body fluid; or
- (b) the extent of injuries of a person;

may, if it is directed to the Court or the prosecuting authority or produced by a Police Officer or a person to whom it is directed or to someone acting on his behalf, be used as evidence of the facts stated in it in a committal proceeding, trial or other proceeding under the Criminal Procedure Act.

(2) A document purporting to be a report under the hand of a pharmacist, chemist, forensic analyst, geoscientist, environmental

expert, laboratory technician or other scientist duly registered for that purpose, relating to a substance or thing submitted to him for examination or analysis, may, if it is directed to the Court or produced by a person to whom it is directed or someone acting on his behalf, be used as evidence of the facts stated in it at a committal proceeding, trial or other proceeding under the Criminal Procedure Act.

(3) A document purporting to be a report under the hand of a licensed surveyor, an engineer, architect, quantity surveyor or other examining officer relating to -

- (a) land, civil works, buildings, electrical installations, equipment, appliances, plants or machinery; or
- (b) the condition or operations of any motor vehicle, vessel, aircraft or conveyance;

may, if it is directed to the Court or the prosecuting authority or produced by a Police Officer or a person to whom it is directed or someone acting on his behalf, be used as evidence of the facts stated in a committal proceeding, trial or other proceeding under the Criminal Procedure Act.

(4) A document purporting to be a report under the hand of a forensic accountant, financial analyst, information technologist or expert actuarial scientist or other scientist or examiner relating to any document, process or thing submitted to him for examination or analysis may, if it is directed to the Court or the prosecuting authority or is produced by a person to whom it is directed or someone acting on his behalf, be used as evidence of the facts stated in it at a committal proceeding, trial or other proceeding under the Criminal Procedure Act.

(5) The Court may presume that the signature to a document is genuine and that the person signing it held the office which he professed to hold or was recognised as such at the time when he signed it.

(6) Upon receiving a report in evidence the Court shall, if it thinks such a course proper for the ends of justice, summon and examine a person referred to in subsections (1), (2) (3) and (4) as a witness or cause the person's evidence to be taken on commission, as the circumstances of the case shall require.

Weight to be attached to
admissible statements.

80.(1) In estimating the weight, if any, to be attached to a statement rendered admissible as evidence by this Act, regard shall be had to all the circumstances from which any inference can reasonably be

drawn as to the accuracy or otherwise of the statement, and in particular-

- (a) to the question whether or not the statement was made contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not the maker of the statement had any incentive to conceal or misrepresent facts; and
- (b) in the case of a statement contained in a document produced by a computer-
 - i. the question whether or not the information which the statement contained, reproduces or is derived from, was supplied to it, contemporaneously with the occurrence or existence of the facts dealt with in that information; and
 - ii. the question whether or not any person concerned with the supply of information to that computer or with the operation of that computer or any equipment by means of which the document containing the statement was produced by it, had any incentive to conceal or misrepresent facts.

(2) For the purpose of any rule of law or practice requiring evidence to be corroborated or regulating the manner in which uncorroborated evidence is to be treated, a statement rendered admissible as evidence by this Act shall not be treated as corroboration of evidence given by the maker of the statement.

Judgments of Courts of Justice

Previous judgments admissible to bar a second suit or trial.

81. The existence of any judgment, order or decree which by law prevents any court from taking cognisance of a suit or holding a trial, is a relevant fact, evidence of which is admissible when the question is whether such court ought to take cognisance of such suit or to hold such trial.

Admissibility of certain judgments in certain jurisdictions.

82.(1) A final judgment, order or decree of a competent court, in the exercise of probate, matrimonial, admiralty or insolvency jurisdiction, which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any such character or to be entitled to any specific thing, not as against any specified person but absolutely, is admissible when the existence of any such legal character, or the title of any such legal persons to any such thing, is relevant.

(2) Such judgment, order or decree is conclusive proof -

- (a) that any legal character which it confers accrued at the time when such judgment, order or decree came into operation;
- (b) that any legal character, to which it declares any such person to be entitled, accrued to that person at the time when such judgment order or decree declares it to have accrued to that person;
- (c) that any legal character which it takes away from any such person ceased at the time from which such judgment, order or decree declared that it had ceased or should cease; and
- (d) that anything to which it declares any person to be so entitled was the property of that person at the time from which such judgment, order or decree declares that it had been or should be his property.

Admissibility and effect of judgments other than those mentioned in section 79.

Judgment, etc. other than those mentioned in sections 78 to 80 when admissible.

83. Judgments, orders or decrees other than those mentioned in **section 82** are admissible if they relate to matters of a public nature relevant to the inquiry; but such judgments, orders or decrees are not conclusive proof of that which they state.

84. Judgments, orders or decrees other than those mentioned in **sections 81, 82 and 83** are inadmissible unless the existence of such judgment, order or decree is a fact in issue, or is admissible under some other provision of this or any other Act.

Conviction as evidence in civil proceedings.

85.(1) Notwithstanding **section 84**, in any civil proceeding the fact that a person has been convicted of any offence by a court of competent jurisdiction shall be admissible for the purpose of proving, where to do so is relevant to any issue in those proceeding that he committed that offence but no conviction that has been quashed on appeal by a court of competent jurisdiction or in respect of which an appeal is pending shall be admissible in evidence by virtue of this section.

(2) If in any civil proceeding it is proved in accordance with subsection (1) of this section that *any* person has been convicted of an offence by a court of competent jurisdiction –

- (a) that person shall be presumed to have committed the offence unless he proves to the contrary; and
- (b) without prejudice to the admission of any other evidence for the purpose of determining the facts upon which the conviction is based, the contents of any information, complaint or

charge sheet according to which that person has been convicted shall also be admissible in evidence for this purpose.

Fraud or collusion in obtaining judgment, or non-jurisdiction of court, may be proved.

86. A party to a suit or other proceeding may show, that any judgment, order or decree which is admissible under **section 81, 82 or 83** and which has been proved by the adverse party was delivered by a court without jurisdiction, or was obtained by fraud or collusion.

Section 83 to 88 adopted from Nigeria's section 59 to 64 on 12/08/25

Opinion Evidence Generally

Opinion inadmissible except as provided in this Act.

87. The opinion of any person as to the existence or non-existence of a fact in issue or relevant to the fact in issue is inadmissible except as provided under **sections 88 to 94**.

Opinions of experts, when admissible.

88.(1) When the court has to form an opinion upon a point of foreign law, customary law or custom or of science or art, or as to identity of handwriting or finger impressions, the opinions upon that point of persons specially skilled in such foreign law, customary law or custom, or science or art, or in questions as to identity of handwriting or finger impressions are admissible.

(2) Persons so specially skilled as mentioned in subsection 1 are called experts.

Opinion as to foreign law.

89.Where there is a question as to foreign law, the opinions of experts who in their profession are acquainted with such law are admissible evidence of it though such experts may produce to the court books which they declare to be works of authority upon the foreign law in question, which books the court, having received all necessary explanations from the expert, may construe for itself.

Opinions as to customary law and custom.

90.In deciding questions of customary law and custom, the opinions of traditional rulers, chiefs or other persons having special knowledge of the customary law and custom and any book or manuscript recognised as legal authority by people indigenous to the locality in which such law or custom applies, are admissible.

Opinion as to existence of "general custom or right" when admissible.

91.(1)When the court has to form an opinion as to the existence of any general custom or right, the opinions as to the existence of such custom or right, of persons who would be likely to know of its existence if it existed are admissible.

(2) The expression "general custom or right" includes customs or rights common to any considerable class of persons.

Opinion as to
handwriting when
admissible.

92.(1)Where the court has to form an opinion as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed that it was or was not written or signed by that person is admissible.

(2)A person is said to be acquainted with the handwriting of another person when he has seen that person write, or when he has received documents purporting to be written by that person in answer to documents written by himself or under his authority and addressed to that person, or when in the ordinary course of business, documents purporting to be written by that person have been habitually submitted to him.

Opinions as to usages
and tenets, when
admissible.

93. When the court has to form an opinion as to-

- (a) the usages and tenets of any body of men or family; or
- (b) the constitution and government of any religious or charitable foundation; or
- (c) the meaning of words or terms used in particular districts or by particular classes of people;

the opinions of persons having special means of knowledge on the matters specified in this section, are admissible.

Opinion on
relationship, when
admissible.

94.When the court has to form an opinion as to the relationship of one person to another, the opinion expressed by conduct as to the existence of such relationship of any person who, as a member of the family or otherwise, has special means of knowledge on the subject is admissible:

Provided that such opinion shall not be sufficient to prove a marriage in proceeding for a divorce or in a petition for damages against an adulterer or in a prosecution for bigamy.

CHARACTER EVIDENCE

Character defined.

95. In **sections 96 to 99** the expression "character" means reputation as distinguished from disposition, and except as mentioned in those sections, evidence may be given only of general reputation and not of particular acts by which reputation or disposition is shown.

Character in Civil Cases

In civil cases,
evidence of character
generally
inadmissible.

96.(1)In civil cases evidence of the fact that the character of any person concerned is such as to render probable or improbable any conduct imputed to him is inadmissible except in so far as such character appears from facts otherwise relevant.

(2) Notwithstanding **subsection (1)**, in civil cases, the fact that the character of any person is such as to affect the amount of damages which he ought to receive may be given in evidence.

In libel and slander, notice must be given of evidence of character.

97.In actions for libel and slander in which the defendant does not by his defence assert the truth of the statement complained of, the defendant is not entitled at the trial to give evidence in chief with a view to mitigation of damages as to the circumstances under which the libel or slander was published, or as to the character of the plaintiff, without the leave of the judge unless seven days at least before the trial he furnishes particulars to the plaintiff of the matters as to which he intends to give evidence.

In criminal cases evidence of good character admissible.

98.In criminal proceedings, evidence of the fact that a defendant is of good character is admissible.

Evidence of character of the accused in criminal proceedings.

99. (1) Except as provided in this section, evidence of the fact that a defendant is of bad character is inadmissible in criminal proceeding,

(2) The fact that a defendant is of bad character is admissible-

- a. when the bad character of the defendant is a fact in issue; or
- b. when the defendant has given evidence of his good character.

(3) A defendant may be asked questions to show that he is of bad character in the circumstances mentioned in paragraph (c) of the proviso to **section 174**.

(4) Whenever evidence of bad character is admissible, evidence of a previous conviction is also admissible.

(5) In cases where subsection (4) of this section applies, the court shall only admit evidence of previous convictions which are related in substance to the offence charged,

(6) Evidence of a previous conviction shall be proved in accordance with **Part XI**.

Proof of previous convictions after conviction.

100. For the purposes of affecting the sentence to be awarded by the court, evidence of previous conviction for an offence may be given in a criminal trial after the conviction of the defendant.

Admissibility of
related previous
convictions.

101. The court shall only admit evidence of previous convictions which are related in substance to the offence charged.

PART VII - DIGITAL EVIDENCE

Admissibility of
electronic evidence.

102. Evidence recorded by electronic devices with or without human input (including close circuit camera television images, emails, payment card transactions, hard drives, IP addresses or any information recorded automatically) shall be admissible as real evidence, and admissibility of such evidence shall be predicated on the evidence that the device was working correctly at all material time.

Special provisions as
to evidence relating
to electronic record.

103.(1) The contents of electronic records may be proved in accordance with the provisions of this section.

(2) Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied on optical or electro-magnetic media produced by a computer (herein referred to as computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein where direct evidence would be admissible.

(3) The conditions mentioned in subsection (1), in respect of a computer output, are the following—

- (a) the computer output containing the information was produced by the computer during the period over which the computer was used to store or process information for any activities regularly carried out over that period by a person having lawful control over the use of the computer;
- (b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;
- (c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect

of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its content; and

- (d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

(4) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in paragraph (a) of sub-section (2) was regularly performed by computers, whether—

- (a) by a combination of computers operating in succession over that period; or
- (b) by different computers operating in succession over that period; or
- (c) in any manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers,

then all computers used for that purpose during that period shall be treated for the purposes of this section to constitute a single computer and references in this section to a computer shall be construed accordingly.

(5) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following—

- (a) identifying the electronic record containing the statement and describing the manner in which it was produced;
- (b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;
- (c) dealing with any matters to which conditions mentioned in sub-section (3) relate; and
- (d) purporting to be signed by a person occupying a responsible position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate),

shall be evidence of any matter stated in the certificate and for the purpose of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge of the person stating it.

(6) For the purpose of this section, information is supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of an appropriate equipment, whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purpose of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities.

Proof as to electronic signature.

104. Except in the case of a secure signature, if the electronic signature of any subscriber is alleged to have been affixed to an electronic record, then the fact that such an electronic signature is the electronic signature of the subscriber must be proved.

Proof as to verification of electronic signature.

105. In order to ascertain whether an electronic signature is that of the person by whom it purports to have been affixed, the court may direct—

(a) that person or the certification service provider to produce the electronic signature certificate; or

(b) any other person to apply the procedure listed on the electronic signature certificate and verify the electronic signature purported to have been affixed by that person.

Presumption as to Gazette in electronic form.

106. A court shall take cognizance of every electronic record purporting to be the official Gazette, or purporting to be electronic record directed by any law to be kept by any person, if such electronic record is kept substantially in the form required by law and is produced from its proper custody.

Presumption as to electronic agreements.

107. A court shall presume that every electronic record purporting to be an agreement containing the electronic signatures of the parties was concluded by affixing the digital signature of the parties.

Presumption as to electronic records and electronic signatures.

108. (1) In any proceedings involving a secure electronic record, the court shall presume, unless the contrary is proved, that the secure electronic record has not been altered since the specific point of time the secure electronic signature was affixed.

(2) In any proceedings involving secure electronic signature, the court shall presume, unless the contrary is proved, that the secure signature is affixed by the subscriber with the intention of signing or approving the electronic record;

(3) Except in the case of a secure electronic or a secure digital signature, nothing in this section shall create any presumption

relating to authenticity and integrity of the electronic record or any digital signature.

Presumption as to electronic signature certificates.

109. A court shall presume, unless the contrary is proved, that the information listed in an electronic signature certificate is correct, except for information, which has not been verified, if the certificate was accepted by the subscriber.

Presumption as to electronic messages.

110. A court may presume that an electronic message forwarded by the originator through an electronic mail server to the addressee to whom the message purports to be addressed corresponds with the message as fed into his computer for transmission, but the court shall not make any presumption as to the person by whom such a message was sent.

PART VIII - DOCUMENTARY EVIDENCE

Admissibility of documentary evidence as to facts in issue.

111.(1) In a proceeding where direct oral evidence of a fact would be admissible, any statement made by a person in a document which seems to establish that fact shall, on production of the original document, be admissible as evidence of that fact if the following conditions are satisfied-

- (a) if the maker of the statement either:
 - i. had personal knowledge of the matters dealt with by the statement; or
 - ii. where the document in question is or forms part of a record purporting to be a continuous record;

made the statement (in so far as the matters dealt with by it are not within his personal knowledge) in the performance of a duty to record information supplied to him by a person who had, or might reasonably be supposed to have personal knowledge of those matters: and

- (b) if the maker of the statement is called as a witness in the proceeding:

Provided that the condition that the maker of the statement shall be called as a witness need not be satisfied if he is dead, or unfit by reason of his bodily or mental condition to attend as a witness, or if he is outside Sierra Leone and it is not reasonably practicable to secure his attendance, or if all reasonable efforts to find him have been made without success.

(2) In any proceeding, the court may at any stage of the proceeding, if having regard to all the circumstances of the case it is satisfied that undue delay or expense would otherwise be caused, order that such a statement as is mentioned in subsection (1) of this section shall be admissible as evidence or may without any such order having been made admit such a statement in evidence notwithstanding that -

- (a) the maker of the statement is available but is not called as a witness; and
- (b) the original document is not produced, if in lieu of it there is produced a copy of the original document or of the material part of it certified to be a true copy in such manner as may be specified in the order or as the court may approve, as the case may be.

(3) Nothing in this section shall render admissible as evidence any statement made by a person interested at a time when proceedings were pending or anticipated involving a dispute as to any fact which the statement might tend to establish.

(4) For the purposes of this section, a statement in a document shall not be deemed to have been made by a person unless the document or the material part of it was written, made or produced by him with his own hand, or was signed or initialed by him or otherwise recognised by him in writing as one for the accuracy of which he is responsible.

(5) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of this section, the court may draw any reasonable inference from the form or contents of the document in which the statement is contained, or from any other circumstances and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be the certificate of a registered medical practitioner.

Bank returns, proof by
copy or newspaper
publication.

112.(1) Returns duly made by a bank may be proved in any proceedings by the production of a copy of such returns verified by the affidavit of the officer of the bank or by producing a newspaper purporting to contain a copy of such returns published by the bank.

(2) A banker or officer of a bank shall not, in any legal proceeding to which the bank is not a party, be compellable to produce any banker's book the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions, and accounts therein recorded unless by order of a judge made for a special cause.

(3) On the application of any party to a legal proceeding, a court or judge may order that such party be at liberty to inspect and take copies of any entries in a banker's book for any of the purposes of such proceedings.

(4) An order under this section may be made either with or without summoning the bank or any other party, and shall be served on the bank three clear days before the same is to be obeyed, unless the court or judge otherwise directs.

Proof of Execution of Documents

Proof of signature and handwriting of person alleged to have signed or written document produced.

113.(1) If a document is alleged to be signed or to have been written wholly or in part by any person the signature or the handwriting of so much of the document as is alleged to be in that person's handwriting must be proved to be in his handwriting.

(2) Where a rule of evidence requires a signature, or provides for certain consequences if a document is not signed, an electronic signature satisfies that rule of law or avoids those consequences.

(3) An electronic signature may be proved in any manner, including by showing that a procedure existed by which it is necessary for a person, in order to proceed further with a transaction, to have executed a symbol or security procedure for the purpose of verifying that an electronic record is that of the person.

Identification of person signing a document.

114.(1) Evidence that a person exists having the same name, address, business or occupation as the maker of a document purports to have are admissible to show that such document was written or signed by that person.

(2) Evidence that a document exists to which the document the making of which is in issue purports to be a reply, together with evidence of the making and delivery to a person of such earlier document, is admissible to show the identity of the maker of the disputed document with the person to whom the earlier document was delivered.

Evidence of sealing and delivery of a document.

115.(1) Evidence that a person signed a document containing a declaration that a seal was his seal is admissible to prove that he sealed it.

(2) Evidence that the grantor on executing any document requiring delivery expressed an intention that it should operate at once is admissible to prove delivery.

Proof of instrument to the validity of which attestation is necessary.

116.(1)In any proceeding, whether civil or criminal, an instrument to the validity of which attestation is required by law may, instead of being proved by an attesting witness, be proved in the manner in which it might be proved if no attesting witness were alive:

Provided that nothing in this section shall apply to the proof of wills or other testamentary documents.

(2)If no attesting witness is alive, an instrument to the validity of which attestation is required by law is proved by showing that the attestation of one attesting witness at least is in his handwriting, and that the signature of the person executing the documents is in the handwriting of that person.

Cases of which proof of execution or of handwriting necessary.

117.(1)A person seeking to prove the due execution of a document is not bound to call the party who executed the document or to prove the handwriting of such party or of an attesting witness in any case where the person against whom the document is sought to be proved-

- (a) produces such document and claims an interest under it in reference to the subject matter of the suit; or
- (b) is a public officer bound by law to procure its due execution, and he has dealt with it as a document duly executed.

(2)Nothing contained in this section shall prejudice the right of a person to put in evidence any document in the manner mentioned in **sections 208 and 209, or under section 152** of this Act.

Proof where attesting witness denies the execution.

118.Where an attesting witness denies or does not recollect the execution of a document, other evidence can be adduced to prove its execution.

Proof of document not required by law to be attested.

119.An attested document not required by law to be attested may be proved as if it was unattested.

Comparison of signature, writing, seal or finger impression with others admitted or proved.

120.(1) In order to ascertain a person's signature, writing, seal or finger impression purported to have been made by him, any signature, writing, seal or finger impression admitted or proved to the court's satisfaction to have been written or made by that person may be compared with the one which is to be proved although that signature, writing, seal or finger impression has not been produced or proved for any other purpose.

(2) The Court may direct any person present in court to write any word or figure or to make finger impressions for the purpose of enabling the court to compare the words, figures or finger impressions so

written with any word, figure or finger impressions alleged to have been written or made by such person:

Provide that where a defendant does not give evidence he may not be so directed to write such words or figures or to make finger impressions.

- (3) After the final termination of the proceeding in which the court required the person to make his finger impressions, such impressions shall be ordered by the court to be destroyed.

Public and Private documents

Public documents.

121.(1)The following documents are public documents--

- (a) documents forming the official acts or records of the official acts of—
 - i. the sovereign authority,
 - ii. official bodies and tribunals, or
 - iii. officers in the legislative, judicial and executive arms of Government whether of Sierra Leone or elsewhere: and
- (b) public records kept in Sierra Leone of private documents.

Private document.

122.All documents other than public documents are private documents.

Certified copy of public documents.

123.(1)Every public officer having the custody of a public document which any person has right to inspect shall give that person on demand a copy of it on payment of the legal fees prescribed in that respect together with a certificate written at the foot of such copy that it is a certified true copy of such document or part of it as the case may be.

- (2) The certificate mentioned in subsection 1 shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorised by law to make use of a seal, and such copies so certified shall be called certified true copies.

- (3) An officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.

Proof of documents by production of certified copies.

124. Copies of documents certified in accordance with **section 123** may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.

125. The following public documents may be proved as follows--

- (a) Acts of Parliament, bye-laws of a local government council, proclamations, treaties or other acts of State, orders, notifications, nominations, appointments and other official communications of the Government-
 - (i) which appear in the Gazette by the production of such Gazette, and shall be prima facie proof of any fact of a public nature which they were intended to notify,
 - (ii) by a copy of the document certified by the officer who authorised or made such order or issued such official communication.
 - (iii) by the records of the government departments concerned certified by the heads of those departments respectively or in respect of matters to which the executive authority of a local government extends, the Chairman of the local government council or any person nominated by such Chairman, or
 - (iv) by any document purporting to be printed by order of Government:
- (b) the proceeding of Parliament, by the minutes of that body or by published Acts or abstracts, or by copies purporting to be printed by order of Government;
- (c) the proceeding of a local government council, by the minutes of that body or by published bye-laws, or by copies purporting to be printed by order of the local government;
- (i) the Acts or Ordinances of any part of the Commonwealth and the subsidiary legislation made under their authority, by a copy purporting to be printed by the Government Printer of any such country;
- (ii) proclamations, treaties or acts of State of any other country, by journals published by their authority or commonly received in that country as such, or by a copy certified under the seal of the country or sovereign;
- (iii) books printed or published under the authority of the government of a foreign country, and purporting to contain the statutes, code or other written law of such country, and also printed and published books of reports of decisions of the courts of such country, and books proved to be commonly admitted in such courts as evidence of the law of such country, shall be admissible as evidence of the law of such foreign country;
- (d) any judgment, order or other judicial proceeding outside Sierra Leone, or any legal document filed or deposited in any court-
 - (i) by a copy sealed with the seal of a foreign or other court to which the original document belongs or, in the event of

such court having no seal, to be signed by the judge, or, if there be more than one judge, by anyone of the judges of the said court, and such judge must attach to his signature a statement in writing on the said copy that the court of which he is judge has no seal, or

- (ii) by a copy which purports to be certified in any manner which is certified by any representative of Sierra Leone to be the manner commonly in use in that country for the certification of copies of judicial records; and
- (e) public documents of any other class elsewhere than in Sierra Leone, by the original, or by a copy certified by the legal keeper of such documents, with a certificate under the seal of a notary public, or of a consul or diplomatic agent that the copy is duly certified by the officer having the legal custody of the original, and upon proof of the character of the document according to the law of the foreign country.

Affidavits

Court may order proof of affidavit.

126.(1) A court may, in any civil proceeding make an order at any stage of such proceeding directing that specified facts may be proved at the trial by affidavit with or without the attendance of the deponent for cross-examination:

Provided that where a party desires the attendance of such deponent for cross-examination the court shall require his attendance for that purpose or alternatively order the cross-examination to be done virtual where this would not result in unjustifiable delay or expense.

(2) Where a deponent of an affidavit referred to in subsection 1 is for any reason unavailable for cross-examination his affidavit shall not be used at the trial.

(3) Before an affidavit is used in the court for any purpose, the original shall be filed in the court and the original or an office copy shall alone be recognised for any purpose in the court.

Affidavit sworn in Sierra Leone.

127. Any affidavit sworn before any judge, officer or other person duly authorised to take affidavits in Sierra Leone may be used in the court in all cases where affidavits are admissible.

Proof of document not required by law to be attested.

128. Any affidavit sworn in any country other than Sierra Leone before-

- (a) a judge or magistrate, being authenticated by the official seal of the court to which he is attached, or by a notary public; or

- (b) the duly authorised officer in the Sierra Leone Embassy, High Commission or Consulate in that country may be used in the court in all cases where affidavits are admissible.

Proof of seal and signature.

129. The fact that an affidavit purports to have been sworn in the manner prescribed in the preceding sections shall be prima facie evidence of:

- (a) the seal or signature as the case may be of any such court, judge, magistrate or other officer or person mentioned in or appended or subscribed to, any such affidavit;
- (b) the authority of such court, judge, magistrate or other officer or person to administer oaths.

Nature of affidavits

Affidavit not to be sworn before certain persons.

130. An affidavit shall not be admitted which is proved to have been sworn before a person on whose behalf the same is offered or before his legal representative, or before a partner or clerk of his legal practitioner.

Affidavit defective in form.

131. The court may permit an affidavit to be used, notwithstanding that it is defective in form according to this Act, if the court is satisfied that it was sworn before a person duly authorised by law to administer oaths.

Amendment and re-swearing of affidavit.

132. A defective affidavit may be amended and re-sworn by leave of the court on such terms as to time, costs or otherwise as seem reasonable.

Contents of affidavits.

133. (1) Every affidavit used in the court shall contain only a statement of facts and circumstances to which the witness deposes either of his own personal knowledge or from information which he believes to be true.

(2) An affidavit shall not contain extraneous matters, by way of objection, prayer or legal argument or conclusion.

(3) When a person deposes to his belief in any matter of fact, and his belief is derived from any source other than his own personal knowledge, he shall set forth explicitly the facts and circumstances forming the ground of his belief.

(4) When such belief is derived from information received from another person, the name of his informant shall be stated and reasonable particulars shall be given respecting the informant, and the time, place and circumstance of the information.

Conflicting affidavits.

134. When there are before a court, affidavits that are irreconcilably in conflict on crucial facts, the court may for the purpose of resolving

the conflict arising from the affidavit evidence ask the parties to proffer oral evidence as to such facts and shall hear any such oral evidence of the deponents of the affidavits and such other witnesses as may be called by the parties.

Cross-examination
of deponent on
affidavit.

135.(1)The Court may on a request made by counsel in any proceedings order the cross-examination of a deponent on his affidavit.

(2) The request mentioned in subsection 1 shall be preceded by a written notice specify the paragraphs of the affidavit that counsel intends to cross-examine the deponent on.

(3) The court shall not use the affidavit of a deponent who fails to appear for cross-examination.

Provisions in taking Affidavits

Forms of Affidavits.

136.(1)Every affidavit taken in a cause or matter shall-

- (a) be headed in the court and in the cause or matter;
- (b) state the full name, trade or profession, residence, and nationality of the deponent; and
- (c) be in the first person, and divided into convenient paragraphs and numbered consecutively.

(2) Any erasure, interlineation or alteration made before the affidavit is sworn, shall be attested by the person before whom it is taken, who shall affix his signature or initial in the margin immediately opposite to the interlineations, alteration or erasure.

(3) Where an affidavit proposed to be sworn is illegible or difficult to read, or is in the judgment of the person before whom it is taken so written as to facilitate fraudulent alteration, he may refuse to swear the deponent, and require the affidavit to be re-written in an unobjectionable manner.

(4) An affidavit when sworn shall be signed by the deponent or if he cannot write or is blind marked by him personally with his mark in the presence of the person before whom it is taken.

Provision as to altered.

137. The person before whom an affidavit is taken shall not allow it, when sworn, to be altered in any manner without being re-sworn; and may refuse to allow an altered affidavit to be re-sworn and require instead a new affidavit.

Jurat.

138. (1) Where the deponent is illiterate or blind the affidavit shall state that fact, and shall be accompanied with a jurat containing the details in subsections 2 and 3.

(2) The jurat shall--

- (a) be written without interlineation, alteration or erasure immediately at the foot of the affidavit, and towards the left side of the paper and shall be signed by the person before whom it is taken;
 - (b) state the date of the swearing and the place where it is sworn;
 - (c) state that the affidavit was sworn before the person taking the same; and
 - (d) where the deponent is illiterate or blind, state such fact and shall state that the affidavit was read over to such illiterate or blind deponent or translated into his own language (in the case of a deponent not having sufficient knowledge of English), and that he appeared to understand it.
- (3) Where the deponent makes a mark instead of signing, the jurat shall state that fact, and that the mark was made in the presence of the person before whom it is taken.
- (4) Where two or more persons join in making an affidavit their several names shall be written in the jurat and it shall appear by the jurat that each of them has been sworn to the truth of the several matters stated by him in the affidavit.
- (5) If the jurat has been added and signed on an altered affidavit, the person before whom it is taken shall add a new jurat on the affidavit being re-sworn and in the new jurat he shall mention the alteration.

Declaration without oath may be taken.

- 139.**(1)The person before whom an affidavit may be taken may take without oath the declaration of any person who-affirms that the
- (a) taking of any oath whatsoever is, according to his religious belief unlawful; or
 - (b) by reason of immature age or want of religious belief, ought not, in the opinion of the person taking the declaration to be admitted to make a sworn affidavit.
- (2) The person taking the declaration shall record in the attestation the reason of such declaration being taken without oath.

PART IX - PROOF

Proof of Facts Generally

Proof of facts.

- 140.** A fact is said to be –

- (a) "proved" when, after considering the matters before it, the court either believe it to exist or considers its existence so probable that a prudent man ought, in the circumstances of the particular case, to act upon the supposition that it does exist;
- (b) "disproved" when, after considering the matters before it, the court either believes, that it does not exist or considers its non-existence so probable that a prudent man ought, in the circumstances of the particular case, to act upon the supposition that it does not exist;
- (c) "not proved" when it is neither proved nor disproved.

Facts which need not be proved

Facts of which court must take judicial notice need not be proved.

141. (1) No fact of which the court shall take judicial notice under this section needs to be proved.

(2) The court shall take judicial notice of-

- (a) all laws or enactments and any subsidiary legislation made under them having the force of law now or previously in force in any part of Sierra Leone;
- (b) all public Acts or Laws passed or to be passed by Parliament and all subsidiary legislation made under them and all local and personal Acts or laws directed by the Parliament to be judicially noticed;
- (c) the course of proceeding of Parliament;
- (d) the assumption of office of the President and Mayor or Chairman of a local government council and of any seal used by any such public officer;
- (e) the seals of all the courts of Sierra Leone, the seals of notaries public and all seals which any person is authorised to use by any Act of Parliament or other enactment having the force of law in Sierra Leone;
- (f) the existence, title and national flag of Sierra Leone or sovereign recognised by Sierra Leone;
- (g) the divisions of time, the geographical divisions of the world, the public festivals and holidays notified in the Gazette or fixed by an Act;
- (h) the territories within the Commonwealth;
- (i) the commencement, continuance and termination of hostilities between Sierra Leone and any other State or body of persons;
- (j) the names of the members and officers of the court and of their deputies and subordinate officers and assistants and also of all officers acting in execution of its process, and of all legal practitioners and other persons authorised by law to appear or act before it;

- (k) the rule of the road on land or at sea:
- (l) all general customs, rules and principles which have been held to have the force of law in any court established by or under the Constitution and all customs which have been duly certified to and recorded in any such court; and
- (m) the course of proceeding and all rules of practice in force in any court established by or under the Constitution.

(3) In all cases in subsection (2) of this section and also on all matters of public history, literature, science or art, the court may resort for its aid to appropriate books or documents or reference.

(4) If the court is called upon by any person to take judicial notice of any fact it may refuse to do so unless and until such person produces any such book or document, as it may consider necessary to enable it to do so.

Facts admitted need to be proved.

142. No fact needs to be proved in any civil proceeding which the parties to the proceeding or their agents agree to admit at the hearing or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule or pleading in force at the time they are deemed to have admitted by their pleadings:

Provided that the court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.

Facts of common knowledge need not to be proved.

143.(1) Proof shall not be required of a fact the knowledge of which is not reasonably open to question and which is –

- (a) common knowledge in the locality in which the proceeding is being held, or generally, or
- (b) capable of verification by reference to a document the authority of which cannot reasonably be questioned.

(2) The court may acquire, in any manner it deems fit knowledge of a fact to which subsection 1 of this section refers and shall take such knowledge into account.

(3) The court shall give to a party to any proceeding such opportunity to make submission and to refer to a relevant information in relation to the acquiring or taking into account of such knowledge, as is necessary to ensure that the party is not unfairly prejudiced.

PART X - ORAL EVIDENCE AND THE INSPECTION OF REAL EVIDENCE

Proof of facts by oral evidence.

144. All facts, except the contents of documents, may be proved by oral evidence.

Oral evidence must be direct.

145. Subject to the provisions of **Part XI** oral evidence shall, in all cases whatever, be direct if it refers to-

- (a) a fact which could be seen, it must be the evidence of a witness who says he saw that fact;
- (b) to a fact which could be heard, it must be the evidence of a witness who says he heard that fact;
- (c) to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived that fact by that sense or in that manner;
- (d) if it refers to an opinion or to the grounds on which that opinion is held, it must *be* the evidence of the person who holds that opinion on those grounds:

Provided that the opinions of experts expressed in any treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatise if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the court regards as unreasonable.

Inspection when oral evidence refers to real evidence.

146. (1) If oral evidence refers to the existence or condition of any material thing other than a document, the court may, if it deems fit-

- (a) require the production of such material thing for its inspection; or
- (b) inspect any moveable or immovable property the inspection of which may be material to the proper determination of the question in dispute.

(2) When an inspection of property under this section is required to be held at a place outside the courtroom, the court shall either-

- (a) be adjourned to the place where the subject-matter of the said inspection may be and the proceeding shall continue at that place until the court further adjourns back to its original place of sitting, or to some other place of sitting; or
- (b) attend and make an inspection of the subject-matter only, evidence, if any, of what transpired there being given in court afterwards, and in either case the defendant, if any, shall be present.

PART XI - EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE

Evidence of terms of judgments, contracts, grants and other dispositions of property reduced to a documentary form.

147.(1) When a judgment of a court or any other judicial or official proceeding, contract or any grant or other disposition of property has been reduced to the form of a document or series of documents, no evidence may be given of such judgment or proceeding or of the terms of such contract, grant or disposition of property except the document itself, or secondary documentary evidence of its contents in cases in which secondary evidence is admissible under this Act, nor may the contents of any such document be contradicted, altered, added to or varied by oral evidence:

Provided that any of the following, matters may be proved-

- (a) fraud, intimidation, illegality, want of due execution, the fact that it is wrongly dated, existence or want or failure of consideration, mistake in fact or law, want of capacity in any contracting party, or the capacity in which a contracting party acted when it is not inconsistent with the terms of the contract, or any other matter which, if proved, would produce any effect upon the validity of any document, or of any part of it or which would entitle any person to any judgment, decree, or order relating to it;
- (b) the existence of any separate oral agreement as to any matter on which a document is silent, and which is not inconsistent with its terms, if from the circumstances of the case the court infers that the parties did not intend the document to be a complete and final statement or the whole of the transaction between them;
- (c) the existence of any separate oral agreement, constituting a condition precedent to the attaching of any obligation under any such contract, grant or disposition of property;
- (d) the existence of any distinct subsequent oral agreement to rescind or modify any such contract, grant or disposition of property; and
- (e) any usage or custom by which incidents not expressly mentioned in any contract are annexed to contracts of that description; unless the annexing of such incident to such contract would be repugnant to or inconsistent with the express terms of the contract.

(2) Oral evidence of a transaction is not excluded by the fact that a documentary memorandum of it was made, if such memorandum

was not intended to have legal effect as a contract, grant or disposition of property.

(3) Oral evidence of the existence of a legal relationship is not excluded by the fact that it has been created by a document when the fact to be proved is the existence of the relationship itself and not the terms on which it was established or is carried on.

Evidence as to
interpretation of
documents.

148.(1) Evidence may be given to show the meaning of illegible or not commonly intelligible characters of foreign, obsolete, technical, local and provincial expressions, of abbreviations and words used in a peculiar sense.

(2) Evidence may not be given to show that common words, the meaning of which is plain and which do not appear from the context to have been used in a peculiar sense were in fact so used.

(3) If the words of a document are so defective or ambiguous as to be unmeaning, no evidence can be given to show what the author of the document intended to say.

(4) In order to ascertain the relationship or the words of a document to facts, every fact may be proved to which it refers, or may probably have been intended to refer or which identifies any person or thing mentioned in it and such facts are in this section called the circumstances of the case.

(5) If the words of a document have a proper legal meaning, and also a less proper meaning, they shall be deemed to have their proper legal meaning, unless such a construction would be unmeaning in reference to the circumstances of the case, in which case they may be interpreted according to their less proper meaning.

(6) If the document has one distinct meaning in reference to the circumstances of the case, it shall be construed accordingly, and evidence to show that the author intended to express some other meaning is not admissible.

(7) If the document applies in part but not with accuracy or not completely to the circumstances of the case, the court may draw inferences from those circumstances as to the meaning of the document whether there are more than one or only one thing or person to whom or to which the inaccurate description may equally well apply; and in such cases no evidence can be given of statements made by the author of the document as to his intentions in reference to the matter to which the document relates though

evidence may be given as to his circumstances, and as to his habitual use of language or names for particular persons or things.

(8) If the language of the document, though plain in itself, applies equally well to more objects than one, evidence may be given both of the circumstances of the case and of statements made by any party to the document as to his intentions in reference to the matter to which the document relates.

(9) If the document is of such a nature that the court will presume that it was executed with any other than its apparent intention, evidence may be given to show that it was in fact executed with its apparent intention.

Application of this part.

149. (1) **Sections 147 and 148** apply only to parties to documents, and their representatives in interest and only to cases in which some civil right or civil liability is dependent upon the terms of a document in question.

(2) A person other than a party to a document or his representative in interest may, notwithstanding the existence of any document, prove any fact which he is otherwise entitled to prove.

(3) A party to any document or any representative in interest of any such party may prove any such fact for any purpose other than that of varying or altering any right or liability depending upon the terms of the document.

(4) Nothing contained in this Part shall be taken to affect any of the provisions of any enactment as to the construction of wills.

PART XII - EXAMINATION-IN-CHIEF, CROSS-EXAMINATION AND RE-EXAMINATION

Examination-in-chief, cross-examination and re-examination.

150. (1) The examination of a witness by the party who calls him shall be called his examination-in-chief.

(2) The examination of a witness by the adverse party shall be called his cross-examination.

(3) Where a witness has been cross-examined and is then examined by the party who called him, such examination shall be called his re-examination.

Order and direction of examination.

151. (1) Witnesses shall first be examined-in-chief, then, if the adverse party so desires, cross-examined, then, if the party calling them so desires, re-examined.

(2) Subject to the following provisions of this Act, the examination-in-chief and cross-examination must relate to relevant facts, but the cross-examination need not be confined to the facts to which the witness testified in his examination-in-chief.

(3)The re-examination shall be directed to the explanation of matters referred to in cross-examination; and, if new matter is, by permission of the court, introduced in re-examination, the adverse party may further cross-examine upon that matter.

(4)The court may in all cases permit a witness to be recalled either for further examination-in-chief or for further cross-examination, and if it does so, the parties have the right of further cross-examination and re-examination respectively.

Cross-examination of person called to produce a document.

152. A person called to produce a document does not become a witness by the mere fact that he produces it, and cannot be cross-examined unless and until he is called as a witness.

Witnesses to character.

153.A witness to character may be cross-examined and re-examined.

Leading question.

154.(1)Any question suggesting the answer which the person putting it wishes or expects to receive, or suggesting a disputed fact as to which the witness is to testify, is a leading question.

(2)Leading questions must not, if objected to by the adverse party, be asked in an examination-in-chief or in a re-examination, except with the permission of the court.

(3)The court shall permit leading questions as to matters which are introductory or undisputed, or which have in its opinion been already sufficiently proved.

(4)Leading questions are permissible when asked in cross-examination.

Evidence as to matters in writing.

155. Any witness may be asked, whilst under examination, whether any contract or grant or other disposition of property as to which he is giving evidence was not contained in a document, but if he says that it was, or if he is about to make any statement as to the contents of any document which in the opinion of the court, ought to be produced, the adverse party may object to such evidence being given until such document is produced, or until facts have been proved which entitle the party who called the witness to give secondary evidence of it.

Cross-examination as to previous statements in writing.

156. A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him or being proved, but if it is intended to contradict a witness by a previous written statement, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him.

Questions lawful in cross-examination.

157. When a witness is cross-examined he may, in addition to the questions hereinbefore referred to, be asked any questions which tend—

- (a) to test his accuracy, veracity or credibility;
- (b) to discover who he is and what is his position in life;
- (c) to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to incriminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture.

When witness to be compelled to answer.

158. If any question asked under **paragraph (c) of subsection 157** for the purpose of affecting the credit of the witness relates to a matter relevant to the suit or proceeding, the provisions of **section 25** of this Act shall apply thereto.

Cross-examination of accused person.

159. A person charged with an offence and called as a witness for the defence may be asked any question in cross-examination notwithstanding that the answer may tend to incriminate him as to the offence charged.

Discretion of court to compel witness to answer question as to credit.

160.(1) If any question asked relates to a matter not relevant to the suit or proceeding except in so far as it affects the credit of the witness by injuring his character, the court shall decide whether or not the witness shall be compelled to answer it, and may, if it does not so compel him, warn the witness that he is not obliged to answer.

(2) In exercising its discretion under this section, the court shall have regard to the following considerations—

- (a) such questions are proper if they are of such a nature that the truth of the imputation conveyed by them would seriously affect the opinion of the court as to the credibility of the witness on the matter to which he testifies;
- (b) such questions are improper if the imputation which they convey relates to matters so remote in time, or of such a character, that the truth of the imputation would not affect, or would affect in a slight degree, the opinion of the

court as to the credibility of the witness on the matter to which he testifies;

- (c) such questions are improper if there is a great disproportion between the importance of the imputation made against the witness's character and the importance of his evidence.

(3) The court may, if it sees fit, draw from the witness's refusal to answer, the inference that the answer, if given, would be unfavourable to the witness.

Necessity for grounds before attacking character.

161. No such question as is referred to in **section 160** of this Act ought to be asked unless the person asking it has reasonable grounds for thinking that the imputation which it conveys is well founded.

Indecent or scandalous questions.

162. The court may forbid any questions or inquiries which it regards as indecent or scandalous, although such questions or inquiries may have some bearing on the questions before the court, unless they relate to facts in issue or to matters necessary to be known in order to determine whether or not the facts in issue existed.

Insulting or annoying questions.

163. The court shall forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the court needlessly offensive in form.

Discretion to allow cross-examination of own witness.

164. The court may, in its discretion, permit the person who calls a witness to put any questions to him which might be put in cross-examination by the adverse party.

Exclusion of evidence to contradict a witness.

165. When a witness has been asked and has answered any question which is relevant to the proceedings only in so far as it tends to shake his credit by injuring his character, no evidence shall be given to contradict him but if he answers falsely, he may afterwards be charged with perjury:

Provided that—

- i. if a witness is asked whether he has been previously convicted of any crime and denies it, evidence may be given of his previous conviction;
- ii. if a witness is asked any question tending to impeach his impartiality and answers it by denying the facts suggested, evidence may be given of the facts.

Evidence to impeach the credit of a witness

166.(1) The credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the court, by the party who calls him—

- (a) by the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit;
- (b) by proof that the witness has been bribed, or has accepted the offer of a bribe, or has received any other corrupt inducement to give his evidence;
- (c) by proof of former statements, whether written or oral, inconsistent with any part of his evidence which is liable to be contradicted;
- (d) when a man is prosecuted for rape or an attempt to commit rape, it may be shown that the prosecutor was of generally immoral character.

- (2) A person who, called as a witness pursuant to sub-section (1) (a), declares another witness to be unworthy of credit may not, upon his examination-in-chief, give reasons for his belief, but he may be asked his reasons in cross-examination and the answers which he gives cannot be contradicted, though, if they are false, he may afterwards be charged with perjury.

Circumstantial questions to confirm evidence.

167. When a witness, the truthfulness of whose evidence it is intended to confirm, gives evidence of any fact, he may be questioned as to any other circumstances which he observed at or near the time or place at which the fact occurred, if the court is of opinion that such circumstances, if proved, would tend to confirm the testimony of the witness as to the fact to which he testifies.

Proof of consistency by former statements.

168. In order to show that the testimony of a witness is consistent, any former statement made by such witness, whether written or oral, relating to the same fact at or about the time when the fact took place, or before any authority legally competent to investigate the fact, may be proved.

Refreshing memory by reference to contemporaneous writing.

169. (1) A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time of the transaction concerning which he is questioned, or made so soon afterwards that the court considers it likely that the transaction was at that time fresh in his memory.

(2) A witness may, while under examination, refresh his memory by referring to any writing made by any other person and read by the

witness within the time mentioned in sub-section (1), if when he read it, he knew it to be correct.

(3) Whenever a witness may refresh his memory by reference to any writing, he may, with the permission of the court, refer to a copy of such writing, if the court is satisfied that there is sufficient reason for the non-production of the original.

(4) An expert may refresh his memory by reference to professional treatises.

Reference to accurate contemporaneous record though facts themselves not specifically recalled.

170. A witness may testify to facts mentioned in any such writing as is referred to in **section 169** although he has no specific recollection of the facts themselves, if he is sure that the facts were correctly recorded in the document.

Rights of adverse party as to contemporaneous writing.

171. Any writing referred to in **section 169** shall be produced and shown to the adverse party if he requires it, and such party may, if he pleases, cross-examine the witness thereupon.

Production of documents of doubtful admissibility.

172. (1) A witness summoned to produce a document shall, if it is in his possession or power, bring it to court notwithstanding any objection which there may be to its production or to its admissibility, but the validity of any such objection shall be tried by the court.

(2) (a) The court, if it sees fit, may inspect the document, unless it is a document to which the provisions of **section 215** are applied, or take other evidence to enable it to determine on its admissibility.

(b) If for such purpose it is necessary to cause any document to be translated, the court may, if it thinks fit, direct the translator to keep the contents secret.

Document produced in answer to notice to be given as evidence if required.

173. When a party calls for a document which he has given the other party notice to produce, and such document is produced and inspected by the party calling for its production, he is bound to give it as evidence if the party producing it requires him to do so and if it is admissible.

Consequence of refusal to produce document in answer to notice.

174. When a party refuses to produce a document for which he has had notice to produce, he cannot afterwards use the document as evidence without the consent of the other party or the order of the court.

Extended powers of court for purpose of obtaining proper evidence.

175. (1) A judge or magistrate may, in order to discover or to obtain proper evidence, ask any question he pleases, in any form, at any

time, of any witness, or of the parties about any fact which are ordinarily admissible; and may order the production of any document or thing; and neither the parties nor their agents shall be entitled to object to any such question or order, nor, without leave of the court, to cross-examine the witness upon any answer given in reply to any such question:

Provided that judgment shall be based only upon facts which are otherwise admissible and which have been duly proved.

(2) Without derogation from subsection 1 a judge or magistrate shall not—

- (a) compel a witness to answer any question or to produce any document which such witness would be entitled to refuse to answer or produce under the provisions of **Part II**, if the question were asked or the document was called for by the adverse party; nor
- (b) ask any question which it would be improper for any other person to ask under **section 160 or 161** of this Act; nor
- (c) to dispense with the primary evidence of any document, except in the cases excepted by the provisions of this Act.

176. (1) A party producing a witness shall not be allowed to impeach his credibility by general evidence of bad character, but he may, in case the witness, in the opinion of the judge, proves adverse or hostile, contradict him by other evidence, or, by leave of the judge, prove that he has made at other times a written statement inconsistent with his present testimony.

How far a party may
discredit his own
witness.

(2) Where a witness under subsection (1), upon cross-examination as to a former statement made by him and inconsistent with his present testimony, does not admit that he has made such statement, proof may be given that he did in fact make it.

(3) Proof that the written statement of a witness is inconsistent with his present testimony shall not be given unless the circumstances of the supposed written statement, sufficient to designate the particular occasion, is mentioned to the witness and he is asked whether or not he has made such written statement.

(4) A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, without such writing being shown to him unless the written statement is intended to contradict such witness.

(5) A written statement that is intended to contradict a witness under subsection (4), shall not be given, unless –

- (a) the attention of the witness is called to those parts of the writing which are to be used for the purpose of so contradicting him; and
- (b) the judge is able, at any time during the trial, to order reproduction of the writing for his inspection and make such use of it for the purposes of the trial, as he may think fit.

Effect of improper admission or rejection.

177. The improper admission or rejection of evidence shall not of itself be ground for a new trial or for reversal of any decision in a case if it shall appear to the court before which the objection is taken that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that if the rejected evidence had been received it would not have varied the decision.

PART XIII - IDENTIFICATION EVIDENCE

Judicial warning on identification evidence.

178. Where the case against the defendant depends wholly or substantially on the correctness of one or more identifications of the accused which the defence alleges to be mistaken, the judge must warn the jury of the need for a special caution before convicting in reliance on such identification or identifications.

Directions to jury on identification circumstances.

179. Where identification is in issue, the judge shall direct the jury to closely examine the circumstances in which the identification was made.

Methods of identification.

180. A defendant may be identified, in addition to visual identification, by eyewitness account, video, fingerprint, identification parade, confrontation, body samples including intimate and non-intimate samples such as semen, saliva, DNA, teeth impression, footwear impression, photograph, voice or otherwise.

Retention of intimate samples.

181. Where intimate samples are taken from a defendant for the purposes of identification, these samples shall be retained for two years but where the police think that there is need to extend the retention period, they shall apply to the court for such extension.

Dock identification.

182. The prosecution shall not invite a witness to identify a defendant in the dock who has not previously been identified at an identity parade unless the witness's attendance at a parade was unnecessary or impracticable or there are exceptional circumstances.

Exclusion of dock identification without parade.

183.In a situation where circumstances require an identification parade to be done, but that was not accomplished, a witness called by the prosecution shall be precluded from identifying the defendant in the dock.

PART XIV - THE BURDEN AND STANDARD OF PROOF

Burden of proof.

184.(1)Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.

(2) When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.

Incidence of burden

185. The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

Proof of particular fact.

186. The burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.

Proof of admissibility.

187. The burden of proving any fact necessary to be proved in order to enable any person to give evidence of any other fact is on the person who wishes to give such evidence.

Proof of special knowledge in civil proceedings.

188.In civil proceedings, when any fact is peculiarly within the knowledge of any party to those proceedings, the burden of proving or disproving that fact is upon him.

Disproving apparent special relationship.

189. When the question is whether persons are partners, landlord and tenant, or principal and agent, and it has been shown that they have been acting as such, the burden of proving that they do not stand, or have ceased to stand, to each other in those relationships respectively, is on the person who affirms it.

Disproving ownership.

190. When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner.

Proof of good faith.

191.Where there is a question as to the good faith of a transaction between parties, one of whom stands to the other in a position of active confidence, the burden of proving the good faith of the transaction is on the party who is in a position of active confidence.

Conclusive proof of legitimacy.

	192. The fact that any person was born during the continuance of a valid marriage between his mother and any man, or within two hundred and eighty days after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate son of that man, unless it can be shown that the parties to the marriage had no access to each other at any time when he could have been begotten.
Presumption of death.	193. Where it is proved that a person has not been heard of for seven years by those who might be expected to have heard of him if he were alive, there shall be a rebuttable presumption that he is dead.
Presumption of likely facts.	194. The court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.
Standard of proof.	195. The standard of proof in criminal cases is proof beyond reasonable grounds whilst the standard of proof in respect of civil cases is on a balance of probability.
Standard of proof in criminal cases.	196. In respect of the standard of proof in criminal cases, the following words shall be used: “you are satisfied so that you are sure of the defendant’s guilt” and that these words should be used whether the case is one in which a judge sits alone or the judge sits with a jury;
Standard of proof on the defence.	197. In criminal cases, whenever the burden shifts to the defence, the standard of proof on the defence is on a balance of probabilities.
Expression of burden in civil cases.	198. In civil cases no form of words is needed to express the burden referred to in section 195 .

PART XIV - ESTOPPEL

General estoppel.	199. When one person has either by virtue of an existing court judgment, deed or agreement, or by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representatives in interest shall be allowed, in any proceeding between himself and such person or such person’s representative in interest, to deny the truth of that thing.
Estoppel of tenant or licensee.	200. No tenant of immovable property, or person claiming through such tenant, shall, during the continuance of the tenancy, be permitted to deny that the landlord of such tenant had at the beginning of the tenancy a title to such immovable property; and no

person who came upon any immovable property by the license of the person in possession thereof shall be permitted to deny that such person had a right to such possession at the time when the license was given.

Estoppel of acceptor of a bill of exchange.

201. Every bill of lading in the hands of a consignee or endorsee for valuable consideration, representing goods to have been shipped on board a vessel, is conclusive proof of that shipment as against the master or other person signing the same, notwithstanding that some goods or some part of them may not have been so shipped, unless such holder of the bill of lading had actual notice at the time of receiving the same that the goods had not been in fact laden on board:

Provided that the master or other person so signing may exonerate himself in respect of such misrepresentation by showing that it was caused without any default on his part, and wholly by the hand of the shipper or of the holder or some person under whom the holder holds.

Estoppel of a bailee, licensee or agent.

202. No bailee, agent or licensee shall be permitted to deny that the bail or, principal or licensor, by whom any goods were entrusted to any of them respectively, was entitled to those goods at the time when they were so entrusted:

Provided that any such bailee, agent or licensee may show that he was compelled to deliver up any such goods to some person, who had a right to them as against his bail, principal or licensor, wrongfully and without notice to the bailee, agent or licensee, obtained the goods from a third person who

PART XV – EVIDENCE OF CHILDREN

Corroboration required in criminal cases.

203. Notwithstanding the provisions of section 19 of the Oaths and Statutory Declarations Act (Cap. 15), where the evidence of the alleged victim is admitted in accordance with that section on behalf of the prosecution in proceedings against any person for an offence, the accused shall not be liable to be convicted on such evidence unless it is corroborated by other material evidence in support thereof implicating him:

Provided that where in a criminal case involving a sexual offence the only evidence is that of the alleged victim of the offence, the court shall receive the evidence of the alleged victim and proceed to convict the accused person if, for reasons to be recorded in the proceedings, the court is satisfied that the alleged victim is telling the truth.

PART XVI - PRIMARY AND SECONDARY DOCUMENTARY EVIDENCE

Proof of contents of documents.

204.The contents of documents may be proved either by primary or by secondary evidence.

Primary document.

205.(1) Primary evidence means the document itself produced for the inspection of the court.

(2) Where a document has been executed in several parts, each part shall be primary evidence of the document.

(3)Where a document has been executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart shall be primary evidence as against the parties executing it.

(4)Where a number of documents have all been made by one uniform process, as in the case of printing, lithography, photography, computer or other electronic or mechanical process, each shall be primary evidence of the contents of the rest; but where they are all copies of a common original, they shall not be primary evidence of the contents of the original.

Secondary document.

206.Secondary evidence includes-

- (a) certified copies given under the provisions hereafter contained in this Act;
- (b) copies made from the original by mechanical or electronic processes which in themselves ensure the accuracy of the copy and copies compared with such copies;
- (c) copies made from or compared with the original;
- (d) counterparts of documents as against the parties who did not execute them; and
- (e) oral accounts of the contents of a document given by some person who has himself seen it.

Proof of documents by primary evidence.

207.Documents shall be proved by primary evidence except in the cases mentioned in this Act.

Cases in which secondary evidence relating to documents may be given.

208.Secondary evidence may be given of the existence, condition or contents or a document when-

- (a) the original is shown or appears to be in the possession or power-
 - (i) of the person against whom the document is sought to be proved, or

(ii) of any person legally bound to produce it, and when after the notice mentioned in section 216 such person does not produce it;

(b) the existence, condition or contents of the original have been proved to be admitted in writing by the person against whom it is proved or by his representative in interest;

(c) the original has been destroyed or lost and in the latter case all possible search has been made for it;

(d) the original is of such a nature as not to be easily movable;

(e) the original is a document of which a certified copy is permitted by this Act or by any other law in force in Sierra Leone, to be given in evidence;

(f) the originals consist of numerous accounts or other documents which cannot conveniently be examined in court, and the fact to be proved is the general result of the whole collection; or

(g) the document is an entry in a banker's book.

Nature of secondary evidence under section 206.

209. (1) The secondary evidence admissible in respect of the original documents referred to in section 208 is as follows-

(a) in paragraphs (a), (c) and (d), any secondary evidence of the contents of the document is admissible;

(b) in paragraph (b), the written admission is admissible;

(c) in paragraph (c) or (e), a certified copy of the document, but no other secondary evidence, is admissible;

(d) in paragraph (f), evidence may be given as to the general result of the documents by any person who has examined them and who is skilled in the examination of such documents; and

(e) in paragraph (g), the copies cannot be received as evidence unless it is first be proved that-

i. the book in which the entries copied were made was at the time of making one of the ordinary books of the bank;

ii. the entry was made in the usual and ordinary course of business;

iii. the book is in the control and custody of the bank, which proof may be given orally or by affidavit by an officer of the bank; and

iv. the copy has been examined with the original entry and is correct, which proof must be given by some person

who has examined the copy with the original entry, and may be given orally or by affidavit.

(2) When a seaman sues for his wages he may give secondary evidence of the ship's articles and of any agreement supporting his case, without notice to produce the originals.

Rules as to notice to produce.

210. Secondary evidence of the contents of the documents referred to in section 208(a) shall not be given unless the party proposing to give such secondary evidence has previously given to the party in whose possession or power the document is, or to a legal practitioner employed by such party such notice to produce it as is prescribed by law and if no notice to produce is prescribed by law then such notice as the court considers reasonable in the circumstances of the case:

Provided that such notice shall not be required in order to render secondary evidence admissible in any of the following cases or in any other case in which the court thinks fit to dispense with it-

- (a) when the document to be proved is itself a notice;
- (b) when, from the nature of the case, the adverse party must know that he will be required to produce it;
- (c) when it appears or is proved that the adverse party has obtained possession of the original by fraud or force;
- (d) when the adverse party or his agent has the original in court; or
- (e) when the adverse party or his agent has admitted the loss of the document.

PART XVII – PRESUMPTIONS

Rule as to Presumptions

Presumptions as to genuineness of certified copies.

211.(1) The court shall presume every document purporting to be a certificate, certified copy or other document which is by law declared to be admissible as evidence of any particular fact and which purports to be duly certified by any officer in Sierra Leone who is duly authorised in that behalf to be genuine provided that such document is substantially, in the form and purports to be executed in the manner directed by law in that behalf.

(2) The court shall also presume that any officer by whom any such document purports to be signed or certified held, when he signed it, the official character which he claims in such document.

Presumption as to documents produced as record of evidence.

212. Whenever any document is produced before any court, purporting to be a record or memorandum of the evidence, or of any part of the evidence, given by a witness in a judicial proceeding or before any officer authorised by law to take such evidence or to be a statement or confession by any prisoner or defendant taken in accordance with law, and purporting to be signed by any judge or magistrate or by any such officer as mentioned in this section the court shall presume that;

- a. the document is genuine;
- b. any statement as to the circumstances in which it was taken purporting to be made by the person signing it, are true: and
- c. such evidence, statement or confession was duly taken.

Presumption as to Gazette, newspaper, Acts of the National Assembly and other documents.

213. The Court shall presume the genuineness of every document purporting to be-

- (a) the Official Gazette of Sierra Leone;
- (b) the Official Gazette of any country other than Sierra Leone;
- (c) a newspaper or journal;
- (d) a copy of the resolutions of Parliament printed by the Government Printer; or
- (e) a copy of a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody.

Presumption as to document admissible in other countries without proof of seal or signature.

214. When any document is produced before any court purporting to be a document which by the law in force for the time being in any country other than Sierra Leone would be admissible in proof of any particular in any court of justice in that country, without proof of the seal or stamp or signature authenticating it, or of the judicial or official character claimed by the person by whom it purports to be signed the court shall presume-

- (a) that such seal, stamp or signature, is genuine; and
- (b) that the person signing it held at the time when he signed it the judicial or official character which he claims and the document shall be admissible for the same purpose for which it would be admissible in the country where the document is produced.

Presumption as to powers of attorney.

215. The court shall presume that every document purporting to be a power of attorney and to have been executed before and authenticated by a notary public or any court, judge, magistrate,

consul or representative of Sierra Leone or, as the case may be, of the President was so executed and authenticated.

Presumption as to public maps and charts.

216.(1) All maps or charts made under the authority of any Government or of any public municipal body and not made for the purpose of any proceeding shall be presumed to be correct and shall be admitted in evidence without further proof.

(2) Where maps or charts so made are reproduced by printing, lithography, or other mechanical or electronic process all such reproductions purporting to be reproduced under the authority which made the originals shall be admissible in evidence without further proof.

Presumption as to books.

217. The court may presume that any book to which it may refer for information on matters of public or general interest the statements of which are relevant facts and which is produced for its inspection was written and published by the person, and at the time and place by whom or at which it purports to have been written or published.

Presumption as to telegraphic and electronic messages.

218.(1) The court may presume that a message forwarded from a telegraph office to the person to whom such message purports to be addressed corresponds with a message delivered for transmission at the office from which the message purports to be sent: but the court shall not make any presumption as to the person by whom such message was delivered for transmission.

(2) The court may presume that an electronic message forwarded by the originator through an electronic mail server to the addressee to whom the message purports to be addressed corresponds with the message as fed into his computer for transmission: but the court shall not make any presumption as to the person to whom such message was sent.

Presumption as to due execution of documents not produced.

219. The court shall presume that every document called for and not produced after notice to produce given under **section 210**, was attested, stamped and executed in the manner required by law.

Presumption as to handwriting, etc. in documents twenty years old.

220. Where any document purporting or proved to be 20 years old or more is produced from any custody which the court in the particular case considers proper, the court may presume that the signature and every other part of such document which purports to be in the handwriting of any particular person is in that person's handwriting, and in the case of a document executed or attested,

that it was duly executed and attested by the persons by whom it purports to be executed and attested.

Proper custody defined.

221.Documents are said to be in proper custody within the meaning of **sections 213 to 220** of this Act if they are in the place in which and under the care of the person with whom they would naturally be, but no custody is improper if it is proved to have had a legitimate origin or if the circumstances of the particular case are such as to render such an origin probable.

Presumption as to date of documents.

222.When any document bearing a date has been proved, it is presumed to have been made on the date it bears and if more documents than one bear date on the same date they are presumed to have been executed in the order necessary to effect the object for which they were executed, but independent proof of the correctness of the date will be required if the circumstances are such that collusion as to the date might be practised and would if practiced injure any person or defeat the objects of any law.

Presumption as to stamp of a document.

223.When any document is not produced after due notice to produce and after being called for, it is presumed to have been duly stamped unless it is shown to have remained unstamped for some time after its execution.

Presumption as to stamp of a document.

224.When any document purporting to be and stamped as, a deed appears or is proved to be or to have been signed and duly attested, it is presumed to have been sealed and delivered although no impression of a seal appears on it.

Presumption as to alternative.

225.(1)No person producing any document which upon its face appears to have been altered in a material part can claim under it the enforcement of any right created by it, unless the alteration was made before the completion of the document or with the consent of the party to be charged under it or his representative in interest.

(2) Subsection (1) of this section shall extend to cases in which the alteration was made by a stranger whilst the document was in the custody of the person producing it, but without his knowledge or leave.

(3) Alterations and interlineations appearing on the face of a deed are in the absence of all evidence relating to them presumed to have been made before the deed was completed

(4) Alterations and interlineations appearing on the face of a will are, in the absence of all evidence relating to them, presumed to have been made after the execution of the will.

(5) There is no presumption as to the time when alterations and interlineations appearing on the face or writings not under seal were made except that it is presumed that they were so made that the making would not constitute an offence.

(6) An alteration is said to be material when, if it had been made with the consent of the party charged, it would have affected his interest or varied his obligations in any manner whatsoever.

(7) An alteration which in no way affects the rights of the parties or the legal effect of the instrument is immaterial.

Presumption as to age of parties to a conveyance or instrument.

226.The persons expressed to be parties to any conveyance or instrument relating to an interest in land shall, until the contrary is proved, be presumed to be of full age at the date of the conveyance or instrument.

Presumption as to statements in documents twenty years old.

227.Recitals, statements, and descriptions of facts, matters, and parties contained in deeds, instruments, Acts of Parliament or statutory declarations 20 years old or more at the date of the contract in which such deed, instrument or other document is sought to be relied upon shall, unless and except so far as they may be proved to be inaccurate, be taken to be sufficient evidence of such facts, matters and descriptions.

Presumption as to deeds of corporation.

228.(1) In-favour of a purchaser a deed shall be deemed to have been duly executed by a body corporate if its seal is affixed to the deed in the presence of and attested by its clerk, secretary or other permanent officer or his deputy, and a member of the board of directors, council or other governing body of the corporation.

(2) Where a seal purporting to be the seal of a corporation has been affixed to a deed, attested by person purporting to be persons holding such offices as are mentioned in subsection (1), the deed shall be deemed to have been executed in accordance with the requirements of this section, and to have taken effect accordingly.

Presumption of death from seven years absence and other facts.

229.(1)A person shown not to have been heard of for 7 years by those, if any, who if he had been alive would naturally have heard of him,

is presumed to be dead unless the circumstances of the case are such as to account for his not being heard of without assuming his death; but there is no presumption as to the time when he died, and the burden of proving his death at any particular time is upon the person who asserts it.

(2) For the purpose of determining title to property where two or more persons have died in circumstances in which it is uncertain which survived the other they are presumed to have died in order of seniority.

(3) There is no presumption as to the age at which a person died who is shown to have been alive at a given time.

Presumption of
legitimacy.

230. Without prejudice to **the provisions of the Matrimonial Causes Act or any other law**, where a person was born, during the continuance of a valid marriage between his mother and any man, or within 280 days after dissolution of the marriage, the mother remaining unmarried, the court shall presume that the person in question is the legitimate child of that man.

Presumption of
marriage.

231. When, in any proceeding whether civil or criminal, there is a question as to whether a man or woman is the husband or wife under Islamic or customary law, of a party to the proceeding the court shall, unless the contrary is proved, presume the existence of a valid and subsisting marriage between the two persons where evidence is given to the satisfaction of the court, of cohabitation as husband and wife by such man and woman.

Court may presume
existence of certain
facts.

232. The court may presume the existence of any fact which it deems likely to have happened, regard shall be had to the common course of natural events, human conduct and public and private business, in their relationship to the facts of the particular case, and in particular the court may presume that—

- (a) a man who is in possession of stolen goods soon after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession;
- (b) a thing or state of things which has been shown to be in existence within a period shorter than that within which such things or states of things usually cease to exist, is still in existence;
- (c) the common course of business has been followed in particular cases;
- (d) evidence which could be and is not produced would, if produced, be unfavorable to the person who withholds it; and
- (e) when a document creating an obligation is in the hands of the obligor, the obligation has been discharged.

Presumption of regularity and of deeds to complete title.

233.(1)When any judicial or official act is shown to have been done in a manner substantially regular, it is presumed that formal requisites for its validity were complied with.

(2)When it is shown that a person acted in a public capacity, it is presumed that he had been duly appointed and was entitled so to act.

(3)When a person in possession of any property is shown to be entitled to the beneficial ownership of it, there is a presumption that every instrument has been executed; which it was the legal duty of his trustees to execute in order to perfect his title.

(4)When a minute is produced purporting to be signed by the chairman of a company incorporated under the Companies Act and purporting to be a record of proceeding at a meeting of the company or of its directors it is presumed, until the contrary is shown, that such meeting was duly held and convened and that all proceeding at the meeting have been duly had, and that all appointments of directors, managers and liquidators are valid.

PART XVIII - EVIDENCE OF CHILDREN AND YOUNG PERSONS

Competency test for a child witness.

234.The test of whether a child is competent to give evidence is whether the child understands rational questions put to him and whether he understands the difference between telling the truth and a telling a lie.

Evidence of children under 14.

235.Where the child is 14 years and below, special care shall be taken to ensure the child understands the importance of giving evidence, telling the truth and the consequences of telling a lie.

Psychosocial support for child witnesses.

236.Where appropriate, the court shall seek the assistance of a psychosocial support to ensure that the child is comfortable and able to understand the importance of being in court and the questions being asked.

PART XIX - MISCELLANEOUS

Evidence by video link.

237. Where a witness is unavailable and it appears to the court that the means of reaching the witness will be expensive, the court may allow such witness to give evidence via live video link or some other electronic form of communication.

Savings.

238. The statutes of general application in force in England on 1st January 1880 relating to evidence with the exception of sections 4 and 5 of the Criminal Procedure Act 1865 of England dealing with previous inconsistent statements are hereby abolished.

Repeal

239. The **Evidence Documentary Act XX** is hereby repealed.