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LOCAL COURTS ACT

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AN ACT

to provide for the recognition and establishment of local courts, previously known as native courts, to amend and consolidate the law relating to the jurisdiction of and procedure to be adopted by local courts; and to provide for matters incidental thereto.

[1st October, 1966]

Act 20 of 1966,
Act 47 of 1970,
Act 21 of 1976,
Act 8 of 1991,
Act 13 of 1994,
Act 18 of 2003,
Act 16 of 2008.

PART I
PRELIMINARY

1. Short title

This Act may be cited as the Local Courts Act.

2. Interpretation



(1)

(1) In this Act, unless the context otherwise requires—

“authorised officer” means the Director of Local Courts, Deputy Director of Local Courts, local courts officer, principal resident magistrate, senior resident magistrate, resident magistrate and such other magistrates, as the Chief Justice may designate for the purpose of this Act.”

“Commission” means the Judicial Service Commission established under the Constitution;

“council” has the meaning assigned to it in section 2 of the Local Government Act;

“court warrant” means a warrant issued under the provisions of sub-section (1) of section 4 recognising or establishing a local court;

“Deputy Director” means the Deputy Director of Local Courts appointed under section 3;

“Director” means the Director of Local Courts appointed under section 3;

“juvenile” has the meaning assigned to it in section 2 of the Juveniles Act;

“juvenile adult” has the meaning assigned to it in section 2 of the Juveniles Act;

“local court” means a court recognised or established under the provisions of section 4;

“local courts officer” means senior local courts officer, local courts officer and assistant local courts officers appointed under section 3.”;

“local court messenger” includes a senior local court messenger;

“matrimonial case” means a case involving divorce, matrimonial disputes, adultery, violating the virginity of a girl, causing pregnancy, abduction of a married woman and polygamy;

“President” means a Presiding Judge or Senior Presiding Justice;

“subordinate court” means a subordinate court as constituted under the subordinate courts Act.

(2) In the exercise of the powers conferred upon it by this Act, the Judicial Service Commission shall act in accordance with the provisions of the Constitution.

[S 2 am by Act 8 of 1991.]

3. Appointment of officers

(1) The Commission may appoint a Director of Local Courts, a Deputy Director of Local Courts and such number of local courts officers as it may consider necessary for the purposes of this Act.

(2) The Director of Local Courts, the Deputy Director of Local Courts and local courts officers shall exercise such powers and perform such duties as are conferred or imposed upon them by or under the provisions of this Act.

[S 3 am by Act 21 of 1976, 8 of 1991.]

PART II
RECOGNITION, ETC., OF LOCAL COURTS

4. Recognition or establishment of local courts

(1) The Chief Justice may, by court warrant under his hand, recognise or establish such local courts as he shall think fit, and any such court shall exercise such jurisdiction as may be conferred by or under the provisions of this Act within such territorial limits as may be defined by such warrant.

[S 4(1) am by s 2 of Act 16 of 2008.]

(2) A copy of a court warrant certified under the hand of the Registrar of the High Court shall be conclusive evidence for all purposes of the existence and contents of such court warrant.

(3) The Chief Justice may at any time suspend or cancel any court warrant, and, upon any such cancellation, may issue a new court warrant in respect of the local court concerned.

[S 4(3) am by s 2 of Act 16 of 2008.]

5. Grades of local courts

(1) Local courts shall be of such different grades as may be prescribed, and local courts of each grade shall exercise jurisdiction only within the limits prescribed for such grade:

Provided that no local court shall be given jurisdiction—

- (i) to determine civil claims, other than matrimonial or inheritance claims, of a value greater than one hundred and twenty fee units; or
- (ii) to impose fines exceeding forty penalty units; or
- (iii) to order probation or imprisonment for a period exceeding two years; or
- (iv) to order corporal punishment in excess of twelve strokes of the cane.

(2) The court warrant of any local court shall specify the grade to which such court belongs.

[S 5 am by Act 8 of 1991, 13 of 1994.]

6. Constitution of local courts and appointment of local magistrates

(1) A Local court shall consist of a presiding local court magistrate sitting alone or with such number of local court magistrates as may be prescribed by the Chief Justice in the court warrant:

(1)

Provided that a single local court magistrate shall constitute the court in the absence of the presiding local court magistrate.

(2) The presiding local court magistrate and other local court magistrates shall be appointed by the Commission for a period of three years and shall be eligible for re-appointment.

(3) A person shall not sit as a local court magistrate in the adjudication of any matter in which the person is a party or in which the person has a pecuniary or personal interest:

Provided that if any doubt arises as to whether a local court magistrate is a party to a matter before a local court or has any pecuniary or personal interest in such matter, the local court shall refer the matter to an authorized officer who shall issue such directions as the officer may consider appropriate.

[S 6 subs by s 3 of Act 16 of 2008.]

7. Sessions

Local courts shall hold sessions at such times and places as may be necessary for the convenient and speedy dispatch of the business of such courts.

[S7 am by Act 21 of 1976, 8 of 1991.]

PART III **JURISDICTION, ETC., OF LOCAL COURTS**

8. Civil jurisdiction of local courts

Subject to the provisions of this Act, a local court shall have and may exercise, within the territorial limits set out in its court warrant, such jurisdiction as may be prescribed for the grade of court to which it belongs, over the hearing, trial and determination of any civil cause or matter in which the defendant is ordinarily resident within the area of jurisdiction of such court or in which the cause of action has arisen within such area:

Provided that civil proceedings relating to real property shall be taken in the local court within the area of jurisdiction in which the property is situate.

[S 8 am by Act 21 of 1976.]

9. Criminal jurisdiction of local courts

Subject to the provisions of this Act, a local court shall have and may exercise jurisdiction, to such extent as may be prescribed for the grade of court to which it belongs, over the hearing, trial and determination of any criminal charge or matter in which the accused is charged with having wholly or in part within the area of jurisdiction of such court, committed, or been accessory to the commission of an offence.

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(1)

10. Preservation of jurisdiction

No local court shall be precluded from trying an offence under the Local Government Act by reason of the fact that such offence was a breach of a by-law or rule issued or made—

- (a) by a council, members of which are also members of such local court; or
- (b) by a member of such local court as a member of a council.

11. Cases excluded from jurisdiction

Subject to any express provision of any other written law conferring jurisdiction, no local court shall have jurisdiction to try any case in which a person is charged with an offence in consequence of which death is alleged to have occurred or which is punishable by death.

12. Law to be administered

(1) Subject to the provisions of this Act, a local court shall administer—

- (a) the African customary law applicable to any matter before it in so far as such law is not repugnant to natural justice or morality or incompatible with the provisions of any written law;
- (b) the provisions of all by-laws and regulations made under the provisions of the Local Government Act and in force in the area of jurisdiction of such local court; and
- (c) the provisions of any written law which such local court is authorised to administer under the provisions of section 13.

(2) Any offence under African customary law, where such law is not repugnant to natural justice or morality, may be dealt with by a local court as an offence under such law notwithstanding that a similar offence may be constituted by the Penal Code or by any other written law:

Provided that such local court shall not impose any punishment for such offence in excess of the maximum permitted by the Penal Code or by such other written law for such similar offence.

13. Enforcement of specified laws

The Minister may, by statutory order, confer upon all or any local courts jurisdiction to administer all or any of the provisions of any written law specified in such order, and may, subject to the limits referred to in sub-section (1) of section 5, specify restrictions and limitations on the impositions of penalties by such local courts on persons subject to their jurisdiction who offend against such provisions.

14. Practice and procedure

The practice and procedure of local courts shall be regulated in accordance with such rules as may be made in that behalf by the Chief Justice under section 68.

15. Parties to appear in person

(1) No legal practitioner, other than a practitioner who is a party and acting solely on his own behalf, may appear or act before a local court on behalf of any party to any proceedings therein save in respect of a criminal charge under any of the provisions of—

- (a) by-laws and regulations made under the provisions of the Local Government Act; or
- (b) any written law which such court is authorised to administer under section 13.

(2) Subject to the directions of the Director, a local courts officer may sit as an adviser in any local court in any proceedings in which a legal practitioner appears before such court under the provisions of sub-section (1).

(3) Subject to the provisions of sub-section (1), a local court may permit the spouse or guardian or a member of the household of any party before such court, where such person gives satisfactory proof to the court that he has authority in that behalf, to appear and act for such party.

(4) Where in any civil proceedings before a local court one or both of the parties to such proceedings is a company or other body corporate, such company or other body corporate may—

(a) in the case of a company formed under the provisions of the Companies Act, appear in court—

- (i) by the secretary or any director or manager whose name appears on the list of directors or managers of such company sent to the Registrar of Companies under the provisions of the Companies Act; or
- (ii) by leave of the court, by any other person or agent, not being a legal practitioner, authorised by such company to appear on its behalf;

(b) in the case of a company which has not been formed under the provisions of the Companies Act, but has a place of business within Zambia, appear in court—

- (i) by any person whose name has been filed with the Registrar of Companies under the provisions of the Companies Act; or
- (ii) by leave of the court, by any other person or agent, not being a legal practitioner, authorised by such company to appear on its behalf;

(c) in the case of any other body corporate, appear in court by the secretary of or the holder of any office in such body corporate or, by leave of the court, by any other person or agent, not being a legal practitioner, authorised by such body corporate to appear on its behalf.

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