

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 73 OF 2018

The Subordinate Court Act
(Laws, Volume 3, Cap. 28)**The Subordinate Court (Amendment)**
Rules, 2018

IN EXERCISE of the powers contained in section 57 of the Subordinate Court Act, the following Rules are made:

- | | |
|---|--|
| 1. These Rules may be cited as the Subordinate Court (Amendment) Rules, 2018, and shall be read as one with the Subordinate Court Rules, in these Rules referred to as the principal Rules. | Title
Cap. 28 |
| 2. Rule 2 of the principal Rules is amended by the insertion of the following definitions in the appropriate places:
“mediator” means the person nominated as mediator under Order XLIII; and
“proceeding” means any civil suit, action, cause or matter filed and pending in the court except as regards rights and obligations which are not at the parties' disposal;. | Amendment
of Rule 2 |
| 3. Order XXVIII of the principal Rules is amended by the insertion of the following new Rule immediately after Rule 4:

(5) There shall be a separate cause list prepared for matters referred to mediation in the order of when that referral is made, and that list shall be made available to parties whose matters are mediated. | Amendment
of Order
XXVIII

Mediation
cause list |
| 4. Order XLIII of the principal Rules is amended by the insertion of the following new rules immediately after rule 14:

15. (1) The mediation officer shall keep a list of trained and certified mediators. | Amendment
of Order
XLIII

List of
mediators |

*Copies of this Statutory Instrument can be obtained from the Government Printer,
P.O. Box 30136, 10101, Lusaka, Price K12.00 each*

(4) The chief mediation officer or the court registry shall provide to a mediator copies of record of proceedings and pleadings.

(5) The court shall not refer to mediation, matters contemplated under Order XXIII, liberty of an individual or any other matter in which the court has no jurisdiction as provided under sections 20, 21, 22 and 23 of the Act.

Settlement
of issues

18. (1) Upon the court's determination of the issues and questions of law under Rule 17 (1), the court shall where it considers that the issues can be mediated on, whether on its own motion or at the request of the parties, refer the issues for mediation as the court considers appropriate.

(2) The issues identified may be settled, without any previous notice, and referred for mediation at any stage of the proceedings or hearing at which all the parties are present.

(3) The court may issue a notice which shall be given to the parties to attend a settlement of the issues at mediation with a court appointed mediator.

Time limit
for
mediation
settlement

19. (1) Upon referral of a matter to mediation by the court, the mediator has forty-five days within which to mediate that matter between the parties.

(2) The mediator shall, at least five days before the intended date of mediation, inform the parties of a date, time and venue for mediation by way of a notice of mediation.

(3) Where the parties fail to settle the matter amicably through mediation, the mediation officer shall refer the matter back to the referring court for adjudication through the mediation officer, with a brief report stating that the mediation was unsuccessful.

(4) Where the court considers that a mediator should be given an extension of time within which to mediate, the court shall impose a reasonable time limit within which that mediation must be concluded.

(5) A mediator, whether appointed by the court or the parties to the mediation, shall return a record of proceedings within five days of the conclusion of the proceedings to the mediation officer and shall inform the parties of the return.

(6) The mediator shall, where the parties fail to settle the matter through mediation, return a report within five days of the conclusion of proceedings stating that the mediation was unsuccessful.

(7) The court shall, where the mediation fails, within ten days of receipt of the report referred to under sub-rule 6, cause to be served on the parties a notice of hearing in the prescribed form specifying the return day.

20. (1) The record of mediation statements made at the mediation session, and information obtained during the mediation shall not be admissible as evidence in court proceedings.

Mediation
record

(2) Sub-rule (1) shall not affect the right of a party to make use of that party's own documents and information in court proceedings, but that party shall not refer to the mediation in connection with or related to the documents and information.

LUSAKA
10th September, 2018

I. C. MAMBILIMA,
Chief Justice

