

Volume 4

LAWS OF THE
REPUBLIC OF ZAMBIA

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Volume 4

Contents

- Chapter 29. Local Courts Act
- Chapter 30. Legal Practitioners Act
- Chapter 31. Law Association of Zambia Act
- Chapter 32. Zambia Law Development Commission Act
- Chapter 33. Commissioners for Oaths Act
- Chapter 34. Legal Aid Act
- Chapter 35. Notaries Public and Notarial Functions Act
- Chapter 36. Inquests Act
- Chapter 37. Sheriffs Act
- Chapter 38. Contempt of Court (Miscellaneous Provisions) Act
- Chapter 39. Commission for Investigations Act
- Chapter 40. Arbitration Act
- Chapter 41. Inquiries Act
- Chapter 42. Investment Disputes Convention Act
- Chapter 43. Evidence Act
- Chapter 44. Evidence (Bankers' Books) Act
- Chapter 45. Fees and Fines Act
- Chapter 46. Council of Law Reporting Act

Chapter 47. Small Claims Courts Act

Chapter 48. Human Rights Commission Act

Chapter 49. Zambia Institute of Advanced Legal Education Act

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

CHAPTER 29 OF THE LAWS OF ZAMBIA

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THE LOCAL COURTS ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation
3. Appointment of officers

PART II

RECOGNITION, ETC., OF LOCAL COURTS

4. Recognition or establishment of local courts
5. Grades of local courts
6. Constitution of local courts and appointment of members
7. Sessions

PART III

JURISDICTION, ETC., OF LOCAL COURTS

8. Civil jurisdiction of local courts
9. Criminal jurisdiction of local courts
10. Preservation of jurisdiction
11. Cases excluded from jurisdiction

12. Law to be administered
13. Enforcement of specified laws

PART IV

PROCEDURE, ETC., OF LOCAL COURTS

14. Practice and procedure
15. Parties to appear in person
16. Copies of records, etc.
17. Issue of summons
18. Warrant of arrest
19. Execution of orders, etc., of other courts
20. Disposal of persons arrested
21. Bail
22. Additional conditions of bail bonds
23. Release from custody
24. Amount of bail and deposits
25. Power to order sufficient bail when that first taken is insufficient
26. Discharge of sureties
27. Death of surety
28. Person bound by recognizance absconding may be committed
29. Forfeiture of recognizance
30. Appeal from and revision of orders
31. Power to issue search warrant
32. Execution of search warrant
33. Persons in charge of closed place to allow ingress thereto and egress therefrom
34. Detention of property seized
35. Awards in civil cases
36. Appointment of administrator and making of orders relating to interstate estates to be administered under the Interstate Succession Act or African customary law

37. Powers and duties of administrators appointed by local courts
38. Transfer of applications for orders relating to intestate estates to High Court
39. Orders in criminal cases
40. Sentences in cases of conviction for several offences at one trial
41. Committed to Subordinate Court for sentence
42. Fines
43. Corporal punishment
44. Compensation
45. Suspended sentences
46. Payment of fines and compensation

PART V

OFFENCES RELATING TO THE ADMINISTRATION OF JUSTICE

47. Contempt of court
48. Corrupt influence
49. Corrupt practice
50. Adjudication without authority

PART VI

TRANSFER OF CASES, REVISION AND APPEALS

51. Interpretation
52. Reports on cases
53. Transfer of cases
54. Powers of inspection and revision
55. Powers of Director
56. Appeals
57. (Repealed by No. 47 of 1970)
58. Powers on appeal
59. Effect of entry of appeal on order, sentence, etc.
60. Procedure in transferred cases

61. Use of assessors
62. Decisions to be in accordance with substantial justice
63. Local court justices to be subject to directions of High Court

PART VII

GENERAL

64. Officers of local courts
65. Indemnities
66. Disposal of exhibits
67. Places of imprisonment
68. Rules
69. Detention and imprisonment rules
70. Obsolete
71. Obsolete

CHAPTER 29

LOCAL COURTS

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]20 of 1966
47 of 1970
21 of 1976
8 of 1991
13 of 1994

PART I

PRELIMINARY

1. This Act may be cited as the Local Courts Act.Short title
2. (1) In this Act, unless the context otherwise requires-

"Director" means the Director of Local Courts appointed under section three;

"Deputy Director" means the Deputy Director of Local Courts appointed under section three;

"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."

"president" means a presiding judge or senior presiding justice;

"council" has the meaning assigned to it in section two of the Local Government Act;

"court warrant" means a warrant issued under the provisions of subsection (1) of section four recognising or establishing a local court;

"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;

"juvenile" has the meaning assigned to it in section two of the Juveniles Act;

"juvenile adult" has the meaning assigned to it in section two of the Juveniles Act;

"local court" means a court recognised or established under the provisions of section four;

"local courts officer" means senior local courts officer, local courts officer and assistant local courts officers appointed under section three.";

"Local Court Messenger" includes a senior local court messenger;

"Subordinate Court" means a Subordinate Court as constituted under the Subordinate Courts Act.

"Commission" means the Judicial Service Commission established under the Constitution; Interpretation

Cap. 281

Cap. 53

Cap. 53

Cap. 28

Cap. 1

(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.

(As amended by Act No. 8 of 1991) Cap. 1

3. (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. Appointment of officers

(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.

(As amended by Acts No. 21 of 1976 and No. 8 of 1991)

PART II

RECOGNITION, ETC., OF LOCAL COURTS

4. (1) The Minister 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. Recognition or establishment of local courts

(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 Minister 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.

5. (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: Grades of local courts

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.

(As amended by Acts No. 8 of 1991 and No. 13 of 1994)

6. (1) A local court shall consist of a presiding justice either sitting alone or with such number of other members as may be prescribed by the Minister in the court warrant: Constitution of local courts and appointment of members

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

(2) The president and other members of a local court shall be appointed by the Commission for a period of three years and shall be eligible for reappointment.

(3) A person sitting as a member of a local court shall be referred to as a local court justice.

(4) No person shall sit as a local court justice or as an assessor of a local court in the adjudication of any matter to which he is a party or in which he has a pecuniary or personal interest:

Provided that if any doubt arises as to whether a local court justice or assessor 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 authorised officer who shall issue such directions as he may deem fit.

(5) The Minister may, by statutory notice, delegate, to the Director, the powers conferred upon him by subsection (1).

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

(As amended by Acts No. 21 of 1976 and Act No. 8 of 1991)Sessions

PART III

JURISDICTION, ETC., OF LOCAL COURTS

8. 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: Civil jurisdiction of local courts

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.

(As amended by No. 21 of 1976)

9. 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. Criminal jurisdiction of local courts

10. 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. Preservation of jurisdiction.

Cap. 281

11. 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. Cases excluded from jurisdiction

12. (1) Subject to the provisions of this Act, a local court shall administer-Law to be administered

(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 Cap. 281

(c) the provisions of any written law which such local court is authorised to administer under the provisions of section thirteen.

(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:Cap. 87

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.Cap. 87

13. 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 subsection (1) of section five, specify restrictions and limitations on the impositions of penalties by such local courts on persons subject to their jurisdiction who offend against such provisions.Enforcement of specified laws

PART IV

PROCEDURE, ETC., OF LOCAL COURTS

14. 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 sixty-eight.Practice and procedure

15. 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-Parties to appear in person

(a) by-laws and regulations made under the provisions of the Local Government Act; orCap. 281

(b) any written law which such court is authorised to administer under section thirteen.

(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 subsection (1).

(3) Subject to the provisions of subsection (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;Cap. 388

(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;Cap. 388

(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.

(As amended by Act No. 8 of 1991)

16. (1) Subject to the provisions of this section and save as may be expressly prescribed, no person shall be entitled as of right, at any time or for any purpose, to inspection of originals or copies of, or to any copy of, any summons, warrant, charge, pleadings, record of evidence, notes by the court, case record, ground of appeal, receipt or other document forming part of the papers in any case before a local court, or of any other record kept by any local court.Copies of records, etc.

(2) A party to any proceedings before a local court shall, on payment of such fee as may be prescribed, be entitled to a copy of any record of those proceedings made by or on behalf of such court.

17. (1) A local court shall have power to summon before such court any person who-Issue of summons

(a) is charged with an offence before such court; or

(b) is the defendant in any civil proceedings before such court; or

(c) is required to give evidence before such court.

(2) The costs of serving or attempting to serve any summons issued by a local court relating to a civil cause or matter shall be borne by the party therein at whose instance such summons was issued, subject to any subsequent order as to costs made by the local court.

(3) Any person who, without reasonable excuse, fails to obey any summons issued under the provisions of this section and duly served, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding eight penalty units or to imprisonment for a period not exceeding one month, or to both.

(4) Any person who-

(a) obstructs or in any way interferes with, or knowingly prevents, the

service of any summons issued by a local court; or

(b) in order to obstruct the due course of justice, dissuades, hinders or prevents or attempts to dissuade, hinder or prevent any person lawfully required to appear as a party, defendant or witness before a local court from so appearing;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding four penalty units or to imprisonment for a period not exceeding three months, or to both.

(As amended by Acts No. 8 of 1991 and No. 13 of 1994)

18. (1) Subject to the provisions of this section, a local court may issue a warrant for the arrest of any person against whom criminal proceedings have been instituted-Warrant of arrest

(a) in lieu of the issue of a summons under the provisions of paragraph (a) of subsection (1) of section seventeen;

(b) notwithstanding the issue of such a summons, at any time before the time appointed in such summons for the appearance of such person; or

(c) if such person does not appear at the time appointed for him to do so in and by any summons.

(2) No warrant of arrest shall be issued under paragraph (a) or (b) of subsection (1) unless the court concerned has reasonable grounds to believe that the accused will not obey a summons or that, by reason of the gravity of the offence, it is desirable that the accused should be arrested, and no such warrant shall be issued under paragraph (c) of the said subsection unless the court is satisfied that the summons has been served on the person concerned.

(3) Every warrant of arrest issued under the provisions of this section shall-

(a) be under the hand of a member of the local court by which it was issued; and

(b) state shortly the offence with which the person against whom it is issued is charged, and shall name or otherwise describe such person; and

(c) order the person or persons to whom it is directed to apprehend the person against whom it is directed and bring him before the local court which issued the warrant to answer the charge therein mentioned and to be further dealt with according to law; and

(d) remain in force until it is executed or until it is cancelled by the local court by which it was issued.

(4) The person executing a warrant of arrest issued under the provisions of this section shall notify the substance thereof to the person to be arrested and, if so required, shall show him the warrant, and shall, without unnecessary delay, bring the person arrested before the local court by which such warrant was issued.

(5) Any irregularity in the substance or form of a warrant of arrest issued under the provisions of this section, and any variation between such warrant and

the complaint in respect of which it was issued, or between such warrant or such complaint and the evidence produced against the accused, shall not effect the validity of any proceedings at or subsequent to the hearing of the case.

19. A local court shall carry into execution any decrees or orders of the High Court or of any Subordinate Court, or any local court, directed to such court, and shall execute all warrants and serve all process issued by any such courts as aforesaid and directed to such local court for execution or service, and shall generally give such assistance to any of the aforesaid courts as may be required. Execution of orders, etc., of other courts

20. A local court before which a person arrested is brought shall, without unnecessary delay-

(a) proceed to the trial of such person for the offence for which he was arrested if it has jurisdiction to deal with the said offence; or

(b) send such person in custody to another local court, or to the nearest Subordinate Court having jurisdiction, if the local court before which the person arrested was brought has no jurisdiction to deal with the said offence. Disposal of persons arrested

21. (1) When any person appears before or is brought before a local court, he may, at any stage of the proceedings before such court, be admitted to bail upon providing a surety or sureties sufficient, in the opinion of the court, to secure his appearance, or released upon his own recognizances if the court thinks fit. Bail

(2) Subject to the provisions of section twenty-four, before any person is admitted to bail or released on his own recognizance, a bond (hereinafter referred to as a bail bond), for such sum as the court thinks sufficient, shall be executed by such person and by the surety or sureties, or by such person alone, as the case may be, conditioned that such person shall attend at the time and place mentioned in such bond and at every time and place to which during the course of the proceedings the hearing may from time to time be adjourned.

(3) A Subordinate Court may at any time, on the application of an accused person, order him, whether or not he has been committed for trial before a local court, to be admitted to bail or released on his own recognizance, and the bail bond in any such case may, if the order so directs, be executed before any magistrate or any president or other member of a local court.

(4) The principles and considerations taken into account by magistrates in Subordinate Courts when exercising their discretion about admitting to bail shall be taken into account by local courts when considering an application for bail under this section.

22. In addition to the condition mentioned in subsection (2) of section twenty-one, the local court before whom a bail bond is executed may impose such further conditions upon such bond as may seem reasonable and necessary in any particular case. Additional conditions of bail bonds

23. (1) As soon as a bail bond has been executed, the person for whose appearance it has been executed shall be released and, when he is in prison, the local court admitting him to bail shall issue an order of release to the officer in charge of the prison, and such officer, on receipt of the order, shall release him. Release from custody

(2) Nothing in this section or in section twenty-one shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which a bail bond was executed.

24. (1) The amount of bail shall, in every case, be fixed with due regard to the circumstances of the case, but shall not be excessive. Amount of bail and deposits

(2) The local court admitting a person to bail or releasing him on his own recognizance may, in lieu of a bail bond, accept a deposit of money, or a deposit of property, from any person who would otherwise have had to execute a bail bond under the provisions of section twenty-one and may attach to such deposit such conditions as might have been attached to a bail bond, and, on any breach of any such condition, such deposit shall be forfeited.

(3) A Subordinate Court may, in any case, direct that the bail or deposit required by a local court be reduced, or may vary or add to any conditions imposed under the provisions of section twenty-one.

25. If, through mistake, fraud or otherwise, insufficient sureties have been accepted, or if afterwards they become insufficient, the local court may issue a warrant of arrest directing that the person released on bail be brought before it and may order him to find sufficient sureties, and, on his failing so to do, may commit him to prison. Power to order sufficient bail when that first taken is insufficient

26. (1) All or any of the sureties for the appearance and attendance of a person released on bail may, at any time, apply to a local court to discharge the bail bond either wholly or so far as it relates to the applicant or applicants. Discharge of sureties

(2) On such application being made, the local court shall issue a warrant of arrest directing that the person so released be brought before the court.

(3) On the appearance of such person pursuant to the warrant or on his voluntary surrender, the local court shall direct the bail bond to be discharged either wholly or so far as it relates to the applicant or applicants, and shall call upon such person to find other sufficient sureties, and, if he fails so to do, may commit him to prison.

27. Where a surety to a bail bond dies before the bond is forfeited, his estates shall be discharged from all liability in respect of the bond, but the party who gave the bond may be required to find a new surety. Death of surety

28. If it is made to appear to a local court, by information on oath, that any person bound by recognizance is about to leave Zambia, the court may cause him to be arrested, and may commit him to prison until the trial, unless the court shall see fit to admit him to bail upon further recognizance. Person bound by recognizance absconding may be committed

29. (1) Whenever any person shall not appear at the time and place mentioned in any recognizance entered into by him, the local court may, by order, endorse such recognizance and declare the same to be forfeited. Forfeiture of recognizance

(2) On the forfeiture of any recognizance, the local court may issue its warrant of distress for the amount mentioned in such recognizance, or for the imprisonment of such person and his surety or sureties, for any term not exceeding six months, unless the amount mentioned in such recognizance be sooner paid or levied.

(3) A warrant of distress under this section may be executed within the local limits of the jurisdiction of the local court which issued it, and it shall authorise the distress and sale of any property belonging to such person and his surety or sureties, and without such limits, when endorsed by the president of the local court within the local limits of whose jurisdiction such property is found.

30. All orders passed by a local court under sections twenty-one to twenty-nine inclusive shall be appealable to and may be revised by a Subordinate Court. Appeal from and revision of orders

31. Where it is proved on oath to the local court that, in fact or according to reasonable suspicion, anything upon, by or in respect of which an offence has been committed or anything which is necessary to the conduct of an investigation into any offence is in any building, vessel, carriage, box, receptacle or place, the local court may, by warrant (called a search warrant), authorise any officer of such local court or other person, not being a member of the local court, named therein, to search such building, vessel, carriage, box, receptacle or place (which shall be named or described in the warrant) for any such thing, and if anything searched for be found, to seize it and carry it before the local court issuing the warrant or some other local court, to be dealt with according to law. Power to issue search warrant

32. Every search warrant may be issued and executed on a Sunday and shall be executed between the hours of sunrise and sunset, but a local court may, by the warrant, in its discretion, authorise the person to whom it is addressed to execute it at any hour. Execution of search warrant

33. (1) Whenever any building or other place liable to be searched is closed, any person residing in or being in charge of such building or place shall, on demand of the person executing the search warrant, and on production of the warrant, allow him free ingress thereto and egress therefrom, and afford all reasonable facilities for a search therein. Persons in charge of closed place to allow ingress thereto and egress therefrom

(2) If ingress to or egress from such building or other place cannot be so obtained, it shall be lawful for the person executing the search warrant to enter such building or place and search therein, and, in order to effect an entrance into such building or place, to break down any outer or inner door or window of any building or place, or otherwise effect entry into such building or place, if, after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.

(3) Where any person in or about such building or other place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

34. (1) When any article is seized and brought before a local court, it may be detained until the conclusion of the case or the investigation, reasonable care

being taken for its preservation. Detention of property seized

(2) If any appeal is made, or if any person is committed for trial, the local court may order the article to be further detained for the purpose of the appeal or trial.

(3) If no appeal is made, or if no person is committed for trial, the local court shall direct that such thing be restored to the person from whom it was taken, unless the court sees fit or is authorised or required by law to dispose of it otherwise.

35. (1) Subject to the provisions of this Act or of any other written law, and to the limitations imposed by its court warrant, a local court, in cases of a civil nature, may-Awards in civil cases

(a) order the award of compensation, which may include an amount for costs and expenses necessarily or reasonably incurred by a successful party or his witnesses;

(b) order the specific performance of a contract;

(c) order the restitution of any property;

(d) make an order for the payment of such monthly sum for the maintenance of a divorced spouse as the court may consider just and reasonable having regard to the means and circumstances of the parties for a period not exceeding three years from the date of divorce or until re-marriage whichever is the earlier;

(e) make an order for the maintenance of any child below the age of eighteen years whether born in or out of marriage:

Provided that where the child is born out of marriage an order under this paragraph shall be made with the consent of the parent against whom the order is to be made when that parent is not the natural parent of the child;

(f) make any other order which the justice of the case may require; and may make any combination of the above orders.

(2) Where a local court has decided any case is of a civil nature and is of the opinion that an order should be made therein which is in excess of its jurisdiction, such local court may, for reasons to be recorded in writing on the record of the case, transmit such case to another local court, or a Subordinate Court, of competent jurisdiction, and the court to which such case is transmitted may make any order which it could have made had such case been tried therein.

(As amended by Act No. 8 of 1991)

36. (1) Subject to the provisions of section thirty-eight, a local court, may, on the application of any interested person, grant letters of administration of the estate of a person who has died intestate and whose estate fails to be administered and distributed in accordance with the Interstate Succession Act or under customary law. Appointment of administrator and making of orders relating to intestate estates to be administered under Cap. 59 Interstate Succession Act or under African customary law

(2) Whenever a local court has made an order under subsection (1) appointing an

administrator of a deceased's estate, the court may-

(a) revoke the appointment of such administrator for good and sufficient cause;

(b) make orders as to the administration of the estate, and in particular, but without prejudice to the generality of the foregoing, as to the appropriate African customary law to be applied on the distribution of the estate and as to the advertising for creditors;

(c) require an administrator to sign an undertaking to administer the estate faithfully;

(d) require an administrator to give security for the due administration of the estate;

(e) make orders as to the payment of the share in the estate of any minor or other person under a disability to a relative or other suitable person for the maintenance or otherwise for the use of such minor or person under a disability.

(3) Where any appointment of an administrator is revoked by a local court-

(a) all payments bona fide made to the administrator before the revocation thereof shall, notwithstanding such revocation, be a legal discharge to the person making the same;

(b) an administrator who shall have acted may retain and reimburse himself out of the assets of the deceased's estate in respect of any payments made by him which an administrator may lawfully make.

(4) Where any administrator administers contrary to customary law, the estate of any person who has died intestate and to whom subsection (2) of section two of the Intestate Succession Act applies-Cap. 59

(a) he shall be guilty of an offence and liable upon conviction to a fine not exceeding eighty penalty units or imprisonment for a term not exceeding six months, or to both;

(b) in addition to any penalty which may be imposed under this subsection, the court may order the restitution to any beneficiary of the property which he has been deprived of and shall revoke the appointment of the administrator.

(As amended by Acts No. 8 of 1991 and No. 13 of 1994)

37. (1) An administrator appointed by a local court under subsection (1) of section thirty-six (hereinafter referred to as an administrator), shall, with reasonable diligence collect the property of the deceased and the debts that were due to him, pay the debts of the deceased and costs of the administration and shall thereafter distribute the estate of the deceased to the persons or for the purposes entitled thereto under the appropriate African customary law and, in carrying out his duties, shall give effect to any orders or directions given by the local court. Powers and duties of administrators appointed by local courts

(2) An administrator may bring and defend proceedings in a local court on behalf of the estate.

(3) The receipt of an administrator shall constitute a good discharge to all

debtors paying their debts and to all persons delivering the property of the deceased to such administrator.

(4) An administrator who misapplies the estate of the deceased or subjects it to loss or damage shall be liable to make good such loss or damage, and an administrator who occasions loss to the estate by neglecting to get in any part of the property of the deceased shall be liable to make good the amount of such loss.

(5) An administrator who distributes the assets of the deceased's estate in discharge of such lawful claims as he knows of and who, after not less than three months after the death of the deceased, distributes the remaining assets among the persons or for the purposes entitled thereto, and who gives effect or complies with any order or direction of a local court, shall not be liable for those assets to any person of whose claim he had no notice at the time of such distribution.

(6) After completing the administration of the deceased's estate, an administrator shall account for his administration of the estate to the local court which made the order under subsection (1) of section thirty-six appointing him administrator.

38. (1) A local court to which application is made for an order under subsection (1) of section thirty-six relating to the administration or distribution of the estate of any person who has died intestate, shall transfer such application to the High Court if-Transfer of applications for orders relating to intestate estates to High Court

(a) the local court is satisfied that a properly interested party has made application to the High Court for an order relating to the administration or distribution of such deceased's estate; or

(b) a properly interested party or the Administrator-General has made application to the local court claiming that the deceased's estate should not be administered in terms of African customary law; or

(c) the local court is satisfied that it is in the interests of justice to transfer such application to the High Court or that it is otherwise necessary to seek directions from the High Court as to the correctness or legality of such application or order to be made thereunder; or

(d) the local court is so ordered or directed by the High Court.

(2) Where an application is transferred to the High Court under subsection (1), the High Court shall make such order or give such directions in relation thereto as it shall think fit.

39. Subject to the provisions of this Act or of any other written law, and to any limitations imposed by its court warrant, a local court in cases of a criminal nature may-Orders in criminal cases

(a) order the imposition of a fine;

(b) order the infliction of a term of imprisonment;

(c) order the administration of corporal punishment;

(d) order the operation of the whole or any part of a sentence of imprisonment passed upon a person by the court to be suspended for a period not exceeding three years on such conditions, relating to compensation to be made by the offender for damage or pecuniary loss, or to good conduct, or to any other matter whatsoever, as the court may specify in that order;

(e) make any other order, including an order for compensation or restitution of property, which the justice of the case may require;

and may make any combination of the above orders.

40. Where a person is convicted by a local court at one trial of two or more distinct offences, such court may sentence him for such offences to the several punishments prescribed therefor which such court is competent to impose. Sentences in cases of conviction for several offences at one trial

41. (1) Where, on the trial by a local court of an offence, any person is convicted of such offence and such court is of opinion that a greater punishment should be inflicted on such person for such offence than such court has power to inflict, the court may, for reasons to be recorded in writing on the record of the case and instead of dealing with the offender in any other manner, commit him in custody to a Subordinate Court of the first or second class within whose area of jurisdiction the local court is situate for sentence. Committal to Subordinate Court for sentence

(2) Where a person is committed for sentence under the provisions of subsection (1)-

(a) the local court by which he is committed shall forthwith send a copy of the record of the case to the court to which such person is committed;

(b) such person shall be brought before the court to which he is committed at the first convenient opportunity;

(c) the court before which such person is so brought shall inquire into the circumstances of the case and shall thereafter proceed as if such person had pleaded guilty before it to the offence in respect of which he has been so committed.

(3) Where any court, under the provisions of subsections (1) and (2), passes any sentence upon any person, such person shall be deemed to have been tried and convicted of the offence concerned by such court.

42. (1) Where a local court orders the payment of a fine, it shall have the power to direct by its sentence that in default of the payment of such fine the offender shall suffer such period of imprisonment as will satisfy the justice of the case: Fines

Provided that-

(i) no such period of imprisonment shall be in excess of the maximum period which such court is by or under the provisions of this Act competent to impose; and

(ii) subject to the express provisions of this or any other written law, in no case shall the imprisonment exceed the maximum fixed by the following scale:

Maximum period of

imprisonment in

Amount of fine in penalty units default

Not exceeding 8 14 days

Exceeding 8 but not exceeding 40 1 month

Exceeding 40 but not exceeding 80 3months

Exceeding 80 but not exceeding 160 6 months

Exceeding 160 9 months

(2) Any imprisonment which is imposed by a local court in default of the payment of a fine shall terminate whenever such fine is either paid or levied by process of law.

(3) Where a term of imprisonment is imposed by a local court in default of the payment of a fine, such term shall, on the payment or levy of part of such fine, be proportionately reduced.

(As amended by Act No. 8 of 1991 and Act No. 13 of 1994)

43. (1) Subject to the provisions of subsection (5), where a local court has convicted any juvenile or juvenile adult of any offence, it may substitute for any sentence of imprisonment or other punishment which it may lawfully impose for such offence a sentence of such corporal punishment as it shall think fit, not exceeding the amount which it is empowered to order under the provisions of this Act or any other written law. Corporal punishment

(2) No corporal punishment shall be ordered by a local court for any female or for any male other than a juvenile or a juvenile adult.

(3) No corporal punishment shall be ordered by a local court for any juvenile or juvenile adult except in accordance with the provisions of subsections (4) and (5).

(4) A local court may, subject to the provisions of sub-sections (2) and (3) and to any limitations imposed under this Act or any local court rules made under the provisions of this Act, or by its court warrant, order corporal punishment in accordance with the provisions of-

(a) this Act and any local court rules and any rules made under section sixty-nine, and the provisions of any other written law relating to the jurisdiction of local courts; and

(b) any written law administered by such local court relating to the care and protection of juveniles and the attendance of juveniles at school; and

(c) any written law administered by such local court relating to the prevention of cruelty to animals.

(5) Subject to the provisions of subsections (2) and (3), a local court may order corporal punishment for any male juvenile or juvenile adult for any

offence which is punishable by imprisonment for three months or more, not being imprisonment which may be ordered solely in default of payment of a fine.

(6) Every sentence of corporal punishment imposed by a local court shall be for the person sentenced to be caned, and to be caned once only, and to be caned with a specified number of strokes not exceeding twelve or such less number as may be the maximum prescribed under the provisions of this Act or any other written law.

(7) A sentence of corporal punishment imposed by a local court under the provisions of this Act or any other written law shall not be carried into effect-

(a) if a notice of appeal has been entered, until after the determination of the appeal; or

(b) if no appeal has been entered, until the sentence has been confirmed by an authorised officer.

44. (1) When a local court has ordered compensation to be paid under the provisions of section thirty-nine to any person injured or aggrieved by the act or omission in respect of which such compensation has been ordered, such person, if he shall accept such compensation without stipulating to the court that he accepts it only as a partial satisfaction of his claim, shall not have or maintain thereafter any suit for the recovery of damages for the loss or injury sustained by him by reason of such act or omission. Compensation

(2) Compensation ordered to be paid under the provisions of section thirty-nine shall be paid into the court which shall transmit the compensation to the owner as soon as possible.

(As amended by Act No. 8 of 1991)

45. (1) Whenever the operation of a sentence of imprisonment has been suspended by a local court under paragraph (d) of section thirty-nine and the offender has, during the period of suspension, observed all the conditions specified in the order, the sentence shall not be enforced. Suspended sentences

(2) If the conditions of any order made under paragraph (d) of section thirty-nine suspending the operation of a sentence of imprisonment are not fulfilled, the offender may, upon the order of any local court justice, authorised officer or Judge, be arrested without warrant and brought before the court which suspended the operation of his sentence, and such court may direct that the sentence shall be executed forthwith or after the expiration of any other sentence which such offender is liable to serve:

Provided that the court which suspended the operation of the sentence may, in its discretion, if it be proved to its satisfaction by the offender that he has been unable through circumstances beyond his control to perform any condition of such suspension, grant an order further suspending the operation of the sentence subject to such conditions as might have been imposed at the time of the passing of the sentence.

(3) In the alternative, where a local court justice, authorised officer or Judge is satisfied that any person convicted by him of an offence has, by reason of such conviction, failed to fulfil the conditions of an order made under paragraph (d) of section thirty-nine

suspending the operation of a sentence of imprisonment, the local court justice, authorised officer or Judge, as the case may be, may direct that the sentence of imprisonment suspended by reason of the said order be either executed forthwith or after the expiration of any other sentence of imprisonment which such person is liable to serve.

46. A local court may order that any fine which it may impose or compensation which it may award shall be paid at such time or times or by such instalments as it shall think fit, and may order that in default of the payment of any instalment the whole of the unpaid balance of such fine or compensation shall become due, and that on the default of the payment of any fine, compensation or instalment thereof when due, the amount of such fine, compensation or instalment, as the case may be, shall, together with the costs of such levy, be levied by the attachment and sale of any property belonging to the person ordered to pay such fine, compensation or instalment: Payment of fines and compensation

Provided that such levy shall not be made by the sale of the following forms of property without the consent of the owner thereof:

- (a) personal clothing, bedding and household utensils;
- (b) implements of husbandry and trade tools;
- (c) foodstuffs grown by such person and required for the feeding of such person, his spouse or his dependants;
- (d) property which is claimed by a third party or in which it is alleged that any other person has an interest, if the local court, after hearing the same, shall find such claim or allegation to be well founded.

PART V

OFFENCES RELATING TO THE ADMINISTRATION OF JUSTICE

47. (1) Any person subject to the jurisdiction of a local court, who, without lawful excuse—Contempt of court

- (a) threatens, intimidates or intentionally insults such court or any member or assessor thereof in his capacity as such; or
- (b) intentionally interrupts the proceedings of such court or otherwise behaves in a disorderly manner before such court; or
- (c) omits to deliver up any document or thing in accordance with the order of such court; or
- (d) not being a person who, in the case before the court is accused of an offence, refuses to answer any question asked by such court which does not tend to incriminate him; or
- (e) while any proceedings are pending in such court, makes use of any speech or writing misrepresenting such proceedings, or capable of prejudicing any person in favour of or against any party to such proceedings; or
- (f) refuses to sign any statement made by him which such court lawfully requires him to sign; or

(g) having the means to pay any compensation awarded against him, refuses or wilfully fails to make such payment after due notice; or

(h) wilfully disobeys or fails to comply with any other lawful order of such court;

shall be guilty of an offence and shall be liable on conviction, in the case of an offence under paragraph (a), to a fine not exceeding eight penalty units or to imprisonment for a period not exceeding twelve months, or to both, and in any other case, to a fine not exceeding four penalty units or to imprisonment for a period not exceeding three months, or to both.

(2) When any offence under subsection (1) is committed in view of the court, the court may cause the offender to be detained in custody, and at any time before the rising of the court on the day on which the offence is committed may take cognizance of the offence and sentence the offender to a fine not exceeding three penalty units.

(As amended by Act No. 13 of 1994)

48. Any person who-

(a) receives or obtains, or agrees or attempts to receive or obtain, or asks for, any property or benefit of any kind for himself or for any other person; or

(b) gives, confers or procures, or promises or offers to give, confer or procure, to, upon or for any person any property or benefit of any kind;

in consideration of the inducement or purported inducement, by corrupt or illegal means or by improper, personal influence, of any local court or any member or assessor thereof to do or forbear to do any act which such local court or member or assessor is authorised or required to do in the exercise of lawful jurisdiction, or to show favour or disfavour to any person, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding eight penalty units or to imprisonment for a period not exceeding twelve months, or to both.

(As amended by Act No. 13 of 1994)Corrupt influence

49. Any person who-

(a) being, or claiming to be, a member or assessor of a local court or claiming to be a prospective member or assessor of such court, corruptly receives or obtains, or asks for, any property or benefit of any kind for himself or for any other person in consideration of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him in the discharge of the duties of a member or assessor of such court, or for showing, as such member or assessor, favour or disfavour to any person; or

(b) corruptly gives, confers or procures, or promises to give, confer or procure or attempts to procure, to, upon or for any member or assessor of a local court or to, upon or for any other person, any property or benefit of any kind in consideration of any such act or omission as is described in paragraph (a) on the part of any such member or assessor, or in consideration of any such favour or disfavour as is described in the said paragraph shown by such member or assessor;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding eighty penalty units or to imprisonment for a period not exceeding three years, or to both.

(As amended by Act No. 13 of 1994)Corrupt practice

50. (1) Any person who, not being duly authorised under this Act or any other written law, for the time being in force, purports to exercise judicial functions as a local court justice, or falsely holds himself out to be a local court justice, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding eight penalty units, or to imprisonment for a period not exceeding twelve months, or to both.Adjudication without authority

Provided that nothing in this subsection shall be deemed to prohibit any African customary arbitration or settlement in any matter with the consent of the parties thereto if such arbitration or settlement is conducted in the manner recognised by the appropriate African customary law.

(2) No prosecution for an offence under the provisions of this section shall be instituted without the written consent of the Director of Public Prosecutions.

(As amended by Act No. 13 of 1994)

PART VI

TRANSFER OF CASES, REVISION AND APPEALS

51. In this Part, unless the context otherwise requires-Interpretation

"adverse award" means a judgment, order or decision against a party which is not a sentence of fine, imprisonment or corporal punishment;

"appellate court" means a court to which an appeal is made under the provisions of this Part;

"interested party" means any person subject to the jurisdiction of a local court who has been either a party to a case in such court or concerned otherwise in such a case as a person claiming to have suffered loss or damage from any act or omission alleged in such a case, or against whom an order has been made in such a case;

"lower court" means a court whose judgment, order or decision is the subject of an appeal under the provisions of this Part or whose judgment, order or decision is, or is to be, revised;

"revised", in relation to any judgment, order or decision, means revised under the provisions of section fifty-four.

52. Every local court shall, when so required by an authorised officer, submit to such authorised officer a report of any cases or classes of cases tried in such court and such report shall be made at such times and in such form, including the submission of case records, as the authorised officer shall direct.Reports on cases

53. (1) Where any proceedings, civil or criminal, have been commenced in a local court, such local court, or an authorised officer within whose area of

jurisdiction such local court is situate, may at any time before judgment, either with or without an application from any interested party in that behalf, by order, and for reasons which shall be recorded in writing on the record of the case, stay such proceedings and, on such terms as may be just, transfer such proceedings for hearing and determination by some other local court or to a Subordinate Court of the first or second class within whose area of jurisdiction the local court wherein such proceedings have been commenced is situate. Transfer of cases

(2) Where any proceedings are transferred in accordance with the provisions of subsection (1), the hearing shall be commenced de novo before such other local court or Subordinate Court of the first or second class, as the case may be, upon payment of the prescribed fees.

(3) Any interested party who is aggrieved by any order of transfer made by a local court under the provisions of subsection (1) in the case in which he is concerned, or by the refusal of such court to make such order, may appeal therefrom to a Subordinate Court of the first or second class within whose area of jurisdiction the local court is situate.

(4) Any interested party who is aggrieved by any order of transfer made by an authorised officer under the provisions of subsection (1) in the case in which he is concerned, or by the refusal of such authorised officer to make such order, may appeal therefrom to the High Court.

(5) For the purposes of this section and section fifty-four, the area of jurisdiction of an authorised officer shall be-

(a) in the case of an authorised officer who is a senior resident magistrate, a resident magistrate or such other magistrate as the Chief Justice may have designated as an authorised officer, the territorial limits within which the Subordinate Court of which he is a magistrate ordinarily exercises jurisdiction; and

(b) in the case of an authorised officer who is a local courts officer, such territorial limit as may be prescribed by the Chief Justice under the provisions of this Act.

54. (1) Every authorised officer shall at all times have access to the records of local courts within the area of his jurisdiction, and may send for and inspect the record of any proceedings before such court and require the production to him of such other evidence as he may deem necessary for the purpose of satisfying himself as to the correctness, legality or propriety of any judgment, order, decision or sentence recorded, made or imposed by such court, or as to the regularity of such proceedings. Powers of inspection and revision

(2) An authorised officer shall, before exercising the powers conferred by subsection (3), carry out such inspection and other action under the provisions of subsection (1) as shall to him appear necessary and, if he considers that undue delay would not be caused, he may, before exercising such powers, also hear submissions by the interested parties on the matters in issue between them in the local court concerned, and on the judgment, order or decision of such court thereon, as if he were hearing an appeal from the same, and a hearing of submissions shall be deemed to have been carried out if the said parties have been given reasonable notice thereof and have either failed, without giving good reason therefor, to attend for the purpose, or have offered, in lieu of such

attendance, written submissions for the purpose which have been given due consideration by the authorised officer.

(3) Subject to the provisions of subsection (4), an authorised officer may, after complying with the provisions of subsection (2) and for reasons which he shall record in writing-

(a) revise any judgment, order or decision of a local court within the area of his jurisdiction in respect of which no appeal has been validly entered, or no application for leave to appeal out of time is pending, or any appeal, if entered, has been withdrawn by reversing, amending or varying in any manner such judgment, order or decision:

Provided that no award of a civil nature shall be varied to the prejudice of any party without an opportunity being first given to the party prejudiced of being heard;

(b) quash any proceedings and, where he considers it desirable, order the case to be heard de novo either before the same local court or some other local court or a Subordinate Court of the first or second class situate within the area of jurisdiction of the authorised officer:

Provided that-

(i) where proceedings are quashed and an order for rehearing is made as aforesaid, no plea of autrefois acquit or autrefois convict or estoppel by res judicata shall be deemed to arise out of the proceedings so quashed;

(ii) when, as aforesaid, any proceedings are quashed and the case is ordered to be reheard de novo before a Subordinate Court of the first or second class, the authorised officer shall be competent to hear such proceedings himself if the proceedings are otherwise within his jurisdiction;

(iii) an authorised officer who is a local courts officer shall not exercise revisory powers under this subsection in cases where he has already sat in an advisory capacity under section fifteen.

(4) In the exercise of his powers under subsection (3), an authorised officer may, in any criminal matter where he is of opinion that a punishment should be inflicted for the offence greater than the punishment which either the local court or the authorised officer has power to inflict, and for reasons which he shall record in writing on the record of the case, refer the case to a Subordinate Court of the first or second class within whose area of jurisdiction the local court is situate.

(5) Whenever an authorised officer refers a case to a Subordinate Court of the first or second class for the purposes of subsection (4), he shall send a copy of the record of the case to the Subordinate Court.

(6) A Subordinate Court to whom a case is referred under the provisions of subsection (4) shall-

(a) if it thinks that a different sentence should have been passed, quash the sentence passed by the local court and order the imposition of such other sentence within its jurisdiction, whether more or less severe, in substitution therefor as it may think ought to have been passed; or

(b) if it thinks that a sentence different from the sentence imposed by the local court should not be passed, order that the case be referred back to the authorised officer who shall forthwith determine the matter under the provisions of subsection (3):

Provided that no sentence in any criminal matter shall be enhanced upon revision without an opportunity being first given to the accused of being heard.

(7) Any judgment, order or decision, including any order on review, made in the exercise of the powers conferred by subsection (3) shall be deemed to be a judgment, order or decision of the authorised officer who made the same, and any appeal therefrom shall lie in accordance with the provisions of subsection (2) of section fifty-six.

55. The Director shall at all times have access to all local courts and to all records thereof and, subject to the provisions of this Act, the Director may exercise all the powers of an authorised officer in relation to any local court.

(As amended by Act No. 8 of 1991) Powers of Director

56. (1) Subject to the provisions of subsection (2), any interested party who is aggrieved by any judgment, order or decision of a local court given or made in the case in which he was concerned, and which has not been revised, may appeal therefrom to a Subordinate Court of the first or second class within whose area of jurisdiction such local court is situate. Appeals

(2) Any interested party who is aggrieved by any judgment, order or decision, including any order on review made with or without submissions under section fifty-four, in the case in which he was concerned, given or made-

(a) by an authorised officer in the exercise of his powers under section fifty-four, may appeal therefrom-

(i) in the case of an authorised officer who is a local courts officer or a magistrate empowered to hold a Subordinate Court of the third class, to a Subordinate Court of the first or second class within whose jurisdiction the local court which heard the original proceedings is situate; or

(ii) in the case of any other authorised officer, to the High Court; or

(b) by the Director in the exercise of his powers under sections fifty-four and fifty-five, may appeal therefrom to the High Court; or

(c) by a Subordinate Court of the first or second class in the exercise of its appellate jurisdiction under this section, may appeal therefrom to the High Court; or

(d) by the High Court in the exercise of its appellate jurisdiction under this section, may appeal therefrom to the Supreme Court with the leave of a Judge or, when such leave is refused, with the leave of the Supreme Court.

(3) Any appeal under the provisions of this section shall be entered within thirty days of the judgment, order or decision appealed against.

(As amended by Act No. 8 of 1991)

57. (Repealed by No. 47 of 1970)

58. (1) Any court exercising appellate jurisdiction under the provisions of this Act may exercise any of the following powers: Powers on appeal

(a) to grant leave to appeal out of time;

(b) to take, or cause to be taken, additional evidence for reasons to be recorded;

(c) to dismiss the appeal if, in the opinion of the appellate court, there has been no substantial miscarriage of justice, notwithstanding that the point raised in the appeal could be decided in favour of the appellant;

(d) to set aside the proceedings of the lower court and order the case to be retried in any court of competent jurisdiction:

Provided that a Subordinate Court shall not order a retrial in the High Court;

(e) to enhance, suspend, reduce or otherwise modify the effect of the sentence or order of the lower court:

Provided that the provisions of subsections (1) and (2) of section forty-five shall apply to any order made under this paragraph suspending the operation of any sentence of imprisonment;

(f) to squash, or annul the verdict, order or sentence of the lower court, or any part thereof, with or without substitution of another verdict, order or sentence;

(g) to permit the release on bail of a person who is in custody by an order made in the case by the lower court and whose sentence has been suspended.

(2) An appeal from a local court shall be dealt with by way of rehearing unless the appellate court, in its discretion, shall see fit to dispense with all, or part, of such rehearing.

59. (1) The entering of an appeal in any case in which an adverse award has been made or a fine imposed by a local court shall not operate as a stay of execution of proceedings under such award or in respect of such fine except in so far as such court, upon the application of the person against whom such award was made or upon whom such fine was imposed, may order. Effect of entry of appeal on order, sentence, etc.

(2) After the entering of an appeal by a person who has been sentenced by a local court to a period of imprisonment, the appellate court, or the lower court may, upon the application of such person, order that such person be released on bail with or without sureties pending the hearing of the appeal, and if, upon such hearing, the original sentence is confirmed or some other sentence of imprisonment is substituted therefor, the time during which the appellant has been released on bail shall be excluded in computing the term of imprisonment to which he is finally sentenced.

60. When, under the provisions of section fifty-three, fifty-four, fifty-five or fifty-six or under the provisions of any other written law, a case which has been before a local court is sent for trial or retrial before another local

court or a Subordinate Court, the local court from which such case has been sent shall report the proceedings in it to the court to which such case is sent, which shall thereupon proceed to the trial or retrial of such case, in criminal matters as though a complaint of facts constituting the offence had been made to the court, and in civil proceedings as though a complaint therein had been made to the court, and if fees for any purpose of the case have been paid to the court from which the case was sent, such fees shall be refunded to the person by whom they were paid and the said other court shall require the payment to itself of such fees as would be due if the proceedings had been commenced before it in the first instance. Procedure in transferred cases

61. (1) Any local court, or any other court before which a case from a local court has been ordered to be tried or retried, or which has before it for revision a case from a local court, or to which an appeal has been made from a local court, or any authorised officer in the exercise of his powers under section fifty-four, may, in dealing with any such matters, require the assistance of assessors and make such use of such assessors as advisers on matters of African customary law as may be necessary: Use of assessors

Provided that no person shall sit as an assessor in any court during the hearing of a case in which he has a personal or pecuniary interest or which was dealt with at any stage by a court of which he was then a member or assessor.

(2) Any advice given by an assessor on matters of African customary law shall, except where such advice is given to an authorised officer, be given in open court and any party to the case shall be entitled to give or bring evidence on such matters after such advice has been given.

62. No proceedings in a local court, and no warrant, process, order or decree issued or made thereby, shall be varied or declared void on appeal or revision solely by reason of defect of procedure or want of form, but every appellate court or person exercising powers of revision shall decide all matters according to substantial justice without undue regard to technicalities. Decisions to be in accordance substantial justice

63. Every president or other local court justice and every proceeding before such president or other local court justice shall be subject to the orders and directions of the High Court. Local court justices to be subject to directions of High Court

PART VII

GENERAL

64. (1) The registrar, clerks, messengers, or other officers of a local court shall have the functions, duties and powers allotted to them by or under the provisions of this Act and by the court. Officers of local courts

(2) Any person who obstructs, or fails to assist if called upon so to do, any officer of a local court, or other person bound to execute lawful warrants or orders issued or made in the exercise of jurisdiction conferred by this Act, in the execution of his duty or the exercise of his powers shall be guilty of an offence and shall be liable on conviction to a fine not exceeding four penalty units or to imprisonment for a period not exceeding three months, or to both.

(As amended by Act No. 13 of 1994)

65. (1) No person shall be liable to any civil action in respect of any act done, or ordered by him to be done, in a judicial capacity in the exercise of jurisdiction conferred by this Act, whether or not within the limits of his jurisdiction, if, at the time of such act or order, he believed in good faith that he had jurisdiction to do such act or make such order, and no officer of any court, or other person bound to execute lawful warrants or orders issued or made in the exercise of jurisdiction conferred by this Act, shall be liable in any civil action in respect of the execution of any warrant or order which he would be bound to execute if the person issuing the same had been acting in the exercise of lawful authority. Indemnities

(2) Immunity from criminal liability for any act mentioned in subsection (1) shall be determined in accordance with the provisions of the Penal Code. Cap. 87

66. (1) Subject to the provisions of any other written law, where anything which has been tendered or put in evidence in any criminal proceedings before a local court has not been claimed by any person who appears to the court to be entitled thereto within a period of twelve months after the final disposal of such proceedings, or of any appeal entered in respect thereof, such thing may be sold, destroyed or otherwise disposed of in such manner as the court may by order direct, and the proceeds of any such sale shall be paid into the general revenues of the Republic. Disposal of exhibits

(2) If anything which has been tendered or put in evidence in any criminal proceedings before a local court is subject to speedy and natural decay and the person entitled thereto is not present in court or cannot otherwise conveniently be found, the court may, at any stage of the proceedings or at any time after the final disposal of such proceedings, order that it be sold or otherwise disposed of but shall hold the proceeds of any such sale and, if such proceeds are unclaimed at the expiration of a period of twelve months after the final disposal of such proceedings, or of any appeal entered in respect thereof, shall pay such proceeds into the general revenues of the Republic.

(3) Notwithstanding the provisions of subsection (1), a local court may, if it is satisfied that it would be just and equitable so to do, order that anything tendered or put in evidence in criminal proceedings before it, should be returned at any stage of the proceedings or at any time after the final disposal of such proceedings to the person who appears to be entitled thereto, subject to such conditions as the court may see fit to impose.

(4) An order of a local court made under the provisions of subsection (1) or (2) shall be final and shall operate as a bar to any claim by or on behalf of any person claiming ownership of, or any interest in, such thing by virtue of any title arising prior to the date of such order.

67. (1) The All existing lock-ups declared to be places of detention or imprisonment by G.N. No. 196 of 1967* Minister responsible for home affairs may authorise places for the detention or imprisonment, as the case may be, of persons taken in the execution of the process of local courts or sentenced by such courts to imprisonment.

* All existing lock-ups declared to be places of detention or imprisonment by G.N. No. 196 of 1967 Places of imprisonment

(2) Any person who is taken in the execution of the process of a local court or who is sentenced by a local court to imprisonment may be detained or imprisoned,

as the case may be, in any place authorised for the purpose under the provisions of subsection (1), notwithstanding that such a place is not a prison as defined in the Prisons Act or in any other written law:Cap. 97

Provided that no person shall be imprisoned in any such place which is not a prison as so defined for a period exceeding three months.

68. (1) The Chief Justice may, by statutory instrument, make rules for carrying this Act into effect, and in particular and without prejudice to the generality of such power, such rules may-

* All existing lock-ups declared to be places of detention or imprisonment by G.N. No. 196 of 1967.Rules

(a) regulate the practice and procedure of local courts and the taking of evidence therein, including procedure on appeal and the enforcement of orders and sentences;

(b) prescribe the fees to be charged in local courts;

(c) prescribe the records to be kept by local courts;

(d) prescribe the forms to be used for any of the purposes of this Act;

(e) prescribe the procedure relating to execution and attachment in civil and criminal cases in local courts;

(f) prescribe the form of, and conditions which may be attached to, bonds to be entered into by sureties for persons admitted to bail under the provisions of this Act, or by persons released upon their own recognizances under the said provisions, or for deposits which may be made in lieu of such bonds;

(g) provide for the variation by other local courts or by Subordinate Courts of the conditions of bonds imposed, or bail or deposits required, by local courts admitting persons to bail or releasing them on their own recognizances;

(h) prescribe the allowances and expenses which may be paid to witnesses and assessors in cases in local courts;

(i) prescribe the costs which may be allowed in local courts in civil and criminal cases and in appeals;

(j) prescribe the duties of officers of local courts;

(k) regulate the practice governing the imposition and administration of corporal punishment, including provisions as to the confirmation of any sentence of such punishment;

(l) regulate the disposal of items ordered to be forfeited, confiscated or surrendered by a local court under the provisions of this Act or any other written law;

(m) prescribe anything to be prescribed under the provisions of this Act.

(2) Rules made under the provisions of subsection (1) may make different provisions in respect of different local courts and grades of local courts.

69. The Minister responsible for home affairs may, by statutory instrument, make rules providing for the management and government of places authorised under the provisions of section sixty-seven for the detention or imprisonment of persons on remand and of persons convicted and awaiting transmission to other custody and for the custody, detention or imprisonment of such persons therein. Detention and imprisonment rules

70. Obsolete.

71. Has had its effect.

SUBSIDIARY LEGISLATION

LOCAL COURTS

SECTION 13-THE LOCAL COURTS (JURISDICTION) ORDER

Order by the Minister Statutory Instruments
353 of 1966
422 of 1966
378 of 1967
22 of 1972
95 of 1976

1. This Order may be cited as the Local Courts (Jurisdiction) Order. Title

2. Subject to the provisions of the Act, all local courts shall have jurisdiction to administer the provisions of-

(a) the written laws specified in the Schedule to the extent indicated in the second column thereof; and

(b) any statutory instrument made and in force under the provisions of any written law which such courts have jurisdiction to administer.

Enforcement of specified laws

SCHEDULE

(Paragraph 2)

SPECIFIED LAWS

Written law	Provisions which local courts have jurisdiction to administer
The Brands Act (Chapter 244)	. . . . . All provisions
The Zambia National Broadcasting Act (Chapter 154)	. . . . . Section 14 (1)
The Cattle Cleansing Act (Chapter 248)	. . . . . All provisions
The Control of Dogs Act (Chapter 247)	. . . . . All provisions
The Cotton Act (Chapter 277)	. . . . . All provisions

The Education Act (Chapter 134)	. . . . .	All provisions
The Firearms Act (Chapter 110)	. . . . .	All provisions
The Fisheries Act (Chapter 200)	. . . . .	All provisions
The Forests Act (Chapter 199)	. . . . .	All provisions
The Local Courts Act (Chapter 29)	. . . . .	All provisions
The Markets Act (Chapter 290)	. . . . .	All provisions
The Penal Code (Chapter 87)	. . . . .	Sections 41, 88, 102, 103, 118, 119, 120, 121, 178, 179, 180, 181, 182, 210, 211, 212, 213, 214, 227, 247, 248, 250, 260, 272, 276, 277, 278, 281, 286, 293, 301, 302, 304, 305, 306, 311, 315, 318, 320, 330, 334, 335 (1), 378, 380, 381, 382, 383, 389 and 390
The Personal Levy Act (Chapter 329)	. . . . .	All provisions
The Prevention of Cruelty to Animals Act (Chapter 245)		All provisions
The Public Pounds and Trespass Act (Chapter 253)	. . . . .	All provisions
The Public Order Act (Chapter 113)	. . . . .	Sections 6, 7, 10, 11 and 15 (2)
The Roads and Road Traffic Act (Chaper 464)	. . . . .	All provisions relating to offences other than- (a) those by persons responsible for motor vehicles and trailers and their servants or agents; (b) those relating to driving licenses.
The Societies Act (Chapter 119)	. . . . .	All provisions
The Stock Diseases Act (Chapter 252)	. . . . .	All provisions

The Traditional Beer Act (Chapter 168)	. . . . .	All provisions
The Tsetse Control Act (Chapter 249)	. . . . .	All provisions
The Witchcraft Act (Chapter 90)	. . . . .	All provisions
The Registration and Development of Villages Act (Chapter 289)	. . . . .	All provisions

(As amended by Act No. 422 of 1966, No. 378 of 1967
No. 22 of 1972 and No. 95 of 1976)

THE LOCAL COURTS RULES

ARRANGEMENT OF RULES

PART I

PRELIMINARY

Rule

1. Title
2. Procedure

PART II

GRADES OF COURTS

3. Grades
4. Jurisdiction of grades

PART III

RECORDS, RETURNS AND FORMS

5. Records and returns
6. Prescribed forms
7. Custody of records and property

PART IV

FEES AND REVENUE

8. Prescribed fees
9. Liability for fees
10. Receipts and repayments
11. Disposal of court revenue

PART V

COMMITTAL TO PRISON

12. Committal to prison
13. Confirmation of sentence of imprisonment

PART VI

CORPORAL PUNISHMENT

Rule

14. Confirmation of sentence of corporal punishment
15. Place of administration of corporal punishment
16. Caning of physically unfit person
17. Administration of corporal punishment
18. Substitution of other penalty for physically unfit person

PART VII

SERVICE OF PROCESS

19. Preparation and service of summons
20. Service by other methods
21. Execution of process
22. Affidavits of service
23. Date for hearing

PART VIII

APPEALS

24. Notifying rights of appeal
25. Notice of appeal
26. Convicted person in prison
27. Procedure on appeal
28. Obsolete

PART IX

MISCELLANEOUS PROVISIONS

29. Arrests without warrant
30. Enhancing or varying decisions in criminal cases
31. Allowances and expenses payable to witnesses and assessors
32. Cases transferred

FIRST SCHEDULE-Fees payable in local courts

SECOND SCHEDULE-Forms and records for use in local courts

SECTION 68-THE LOCAL COURTS RULES Statutory Instruments

293 of 1966

40 of 1969

97 of 1986

170 of 1990

4 of 1992

13 of 1994

46 of 1995

Rules by the Chief Justice

PART I

PRELIMINARY

1. These Rules may be cited as the Local Courts Rules. Title
2. The practice and procedure of local courts shall be regulated in accordance with these Rules, and in default thereof, in substantial conformity with the law and practice for the time being observed in a Subordinate Court. Procedure

PART II

GRADES OF COURTS

3. There shall be two grades of local courts for purposes of jurisdiction entitled Grade A and Grade B and the court warrant of every local court shall specify to which of the said grades such court belongs. Grades
4. Local courts of either grade shall have the jurisdiction conferred on local courts by the Act, to the extent permitted to each respective grade by the following limitations, and by any limitations imposed under the Act:
 - (a) in the exercise of jurisdiction under sections eight and thirty-five of the Act-Jurisdiction of grades
 - (i) no local court of either grade shall determine any matrimonial or inheritance claim which is not based on African customary law; and
 - (ii) no local court of either grade shall determine any civil claim, other than a matrimonial or inheritance claim based upon African customary law, which is greater in value than the amount set out hereunder for the grade to which such court belongs:

Grade A 60 fee units

Grade B 48 fee units

(b) in the exercise of jurisdiction under sections nine and thirty-nine of the Act-

(i) no local court of either grade shall impose a fine exceeding the amount set out hereunder for the grade to which such court belongs:

Grade A 20 penalty units

Grade B 12 penalty units

(ii) no local court of either grade shall order infliction of a term of imprisonment or period of probation exceeding the period set out hereunder for the grade to which such court belongs:

Grade A 2 years

Grade B 18 months;

(iii) no local court of either grade shall order the infliction of corporal punishment in excess of the number of strokes with a cane set out hereunder for the grade to which such court belongs:

Grade A 12 strokes

Grade B 6 strokes

and every such order shall be made in accordance with rules 14 to 18.

(As amended by S.I. No. 4 of 1992 and Act No. 13 of 1994)

PART III

RECORDS, RETURNS AND FORMS

5. Every local court shall cause a written record to be made of the proceedings of every case determined by it in the exercise of its civil and criminal jurisdiction, and shall cause a monthly return listing all cases determined by or brought before such court during that month to be forwarded to the Registrar of the High Court, or to an authorised officer, as may be directed by the Registrar of the High Court. Records and returns

6. The forms and records appearing in the Second Schedule, with such variations as the circumstances of each case may require, shall be used for the respective purposes therein mentioned, and when so used shall be sufficient for such purpose. Prescribed forms

7. The clerk of every local court shall be responsible for the making and submission of such records and returns as may be required from such court under section fifty-two of the Act and rule 5, and for the safe keeping of all books, forms and other documents and records belonging to such court, and of all money and other property which may come into such court's possession, and for the production of the same for inspection at any time by the Director, an authorised

officer or any other officer, including an official of the Audit Department of the Government, who is permitted by an authorised officer to inspect the same, or for any other lawful purpose and shall observe all directions given by an authorised officer concerning such safe keeping and production.

(As amended by Act No. 8 of 1991)Custody of records and property

PART IV

FEES AND REVENUE

8. (1) The fees payable in local courts shall be as specified in the First Schedule, and shall be paid in cash. The fee for a summons or for a copy of a document shall be paid before the issue of such summons or the making of such copy, as the case may be, a hearing fee or a fee on appeal upon the hearing of the case concerned or the entering of such appeal, as the case may be, and the fee on execution upon the levying of such execution:Prescribed fees

Provided that a local court may in its discretion remit all or part of any fees payable when satisfied that the person liable for them is by reason of poverty unable to pay such fees or part thereof, as the case may be, or that there is other good cause for such remission.

(2) A fee of two units shall be paid to a local court by parties to a customary law marriage for the issue of a marriage certificate.

(3) A fee of two units shall be paid to a local court by parties to a customary law marriage upon dissolution of their marriage for the issue of a divorce certificate.

(As amended by S.I. No. 4 of 1992
and Act No. 13 of 1994)

9. The fee for any summons or on any appeal or for any copy of a document shall be paid by the party applying for such summons or copy or entering such appeal, as the case may be; a hearing fee shall be paid by such party to the case as the court may direct or, failing such direction, by the plaintiff, and the fee on execution by the party against whom such execution is levied:Liability for fees

Provided that where a party who is successful in a case has paid any fees to a local court in respect of such case then, unless the court shall have ordered otherwise, the other party or such other party as the court may direct shall pay the amount of fees to the said successful party.

10. (1) The clerk of every local court, or other officer thereof detailed for the purpose, shall issue or cause to be issued a receipt for every fee paid to such court, and for every fine paid and for every deposit accepted for release on bail and for every amount received as the result of forfeiture of a bail bond, and for every payment into such court of money for any other purpose.Receipts and repayments

(2) When any fee or fine is refunded, or any fine paid out as compensation or damages or any deposit accepted for release on bail is refunded, or any payment into court of money for any other purpose is paid out or delivered to any person, the person receiving the same shall provide the court making such refund or payment or delivery with a written acknowledgment of having received the

money concerned.

11. All fines and fees except such as are to be refunded or paid as compensation under these Rules or by order of court, and all proceeds of any order of forfeiture made by any court shall, if lawfully received by a court, be paid into the general revenues of the Republic. Disposal of court revenue

PART V

COMMITTAL TO PRISON

12. (1) Whenever a local court, pending or during or at the conclusion of any proceedings against any person before it, remands such person in custody and does not release him on bail, it shall-Committal to prison

(a) if he can be kept during the period of such remand in the precincts of the court or in a place of detention authorized under section sixty-seven of the Act, remand him to be kept therein for the period of such remand or for three clear days, whichever period is the shorter; or

(b) if he cannot be so kept, issue a warrant of commitment on remand signed by a member of such court committing such person to prison for the period of such remand or for fifteen clear days, whichever period is the shorter;

and on the expiration of such period shall have him brought before it to proceed with the hearing of his case, or for further remand as hereinbefore provided, which further remand shall be endorsed by a member of the court on any warrant that was issued for the original remand.

(2) A sentence of imprisonment imposed by a local court under the provisions of the Act, or any other written law, shall not be carried into effect until the sentence has been confirmed by an authorised officer.

13. (1) Every person convicted and sentenced to a term of imprisonment without the option of a fine by a local court, shall be remanded in custody on the day of his conviction pending confirmation of such sentence by an authorised officer. Confirmation of sentence of imprisonment

(2) Every person sentenced to imprisonment by a local court shall immediately be sent to an authorised officer together with the court's record of the case in which he was so sentenced and a warrant of commitment to undergo such sentence signed by a member of such court, and if such officer shall certify on such warrant that he has confirmed the sentence of imprisonment ordered by it or has varied it to a period specified in such certificate, the said warrant, amended by him to conform to any variation so made, shall take effect and the date of commencement of the said imprisonment, as so confirmed or varied, shall be the date on which the said sentence of imprisonment was confirmed, or if it was ordered as an alternative to payment within a specified period of a fine or compensation, which payment has not been made, the date of expiration of such period.

(3) If the local court concerned shall not have produced a warrant of commitment in accordance with this rule, the said authorised officer, on being satisfied that such court has made an order for such commitment, may issue a warrant therefor in pursuance of such order which shall be deemed to be the warrant which such local court was required to produce.

PART VI

CORPORAL PUNISHMENT

14. (1) Every person convicted and sentenced to corporal punishment by a local court shall be remanded in custody on the day of his conviction pending confirmation of such sentence by an authorised officer, and administration of the corporal punishment. Confirmation of sentence of corporal punishment

(2) Every person sentenced to corporal punishment by a local court shall immediately be sent to an authorised officer together with the court's record of the case in which he was so sentenced and a warrant of commitment to undergo such sentence signed by a member of such court, and if such officer shall certify on such warrant that he has, under section forty-three (7) (b) of the Act, confirmed the sentence of corporal punishment ordered by it or has varied it to an amount specified on such certificate, the said warrant amended by him to conform to any variation so made shall take effect subject to the provisions of section forty-three (7) of the Act.

(3) If the local court shall not have produced a warrant of commitment in accordance with this rule, the authorised officer, on being satisfied that such court has made an order for such commitment, may issue a warrant therefor in pursuance of such order which shall be deemed to be the warrant which such local court was required to produce.

15. No corporal punishment ordered by a local court shall be administered except in a lawfully established prison or in the presence of an authorised officer, and if possible in the presence of a medical officer, and no such punishment shall be administered in public. Place of administration of corporal punishment

16. No corporal punishment ordered by a local court shall be administered unless, in the opinion of a medical officer, if one is available, or of an authorised officer if no medical officer is available, the person to whom it is to be administered is physically fit to undergo it; and no such punishment shall be continued if, in the opinion of such officer, such person is not physically fit to undergo the remainder thereof. Caning of physically unfit person

17. (1) Corporal punishment shall be administered with a rattan cane which shall be-Administration of corporal punishment

(a) for the caning of a male juvenile under the apparent age of nineteen years, of length ninety-two centimetres and diameter not more than one centimetre;

(b) for the caning of a male juvenile adult between the apparent ages of nineteen and twenty-one years, of length one thousand two hundred and twenty millimetres and diameter not more than twelve point five millimetres.

(2) Corporal punishment shall be administered on the buttocks of the person sentenced thereto, from the side, and during such administration a blanket folded at least three times, or equivalent form of protection, shall be placed and kept across the small of the back immediately next to the buttocks of such person and a piece of thin cotton cloth soaked in water and wrung out shall be kept spread over the buttocks of such person.

(3) No sentence of corporal punishment shall be administered by instalments,

and if more such sentences than one have been imposed on one day by the same local court on the same person, they shall be administered as if they together constituted one sentence, to be caned once only, with the total number of strokes specified in such sentences up to but not exceeding the limit for any one such sentence mentioned in section forty-three (6) of the Act.

18. When any corporal punishment ordered by a local court, as duly confirmed or varied under rule 14, fails to be administered by reason of the operation of rule 16, the authorised officer who confirmed or varied the order for such punishment, on being duly informed of such non-administration and acting in exercise of his powers under section fifty-four of the Act, may substitute such other penalty as he considers appropriate. Substitution of other penalty for physically unfit person

PART VII

SERVICE OF PROCESS

19. Every summons issued by a local court under the provisions of section seventeen of the Act shall-

(a) be in writing, in duplicate, and signed by the registrar or clerk of such court or by a member thereof; and

(b) be directed to the person summoned, requiring him to appear, at a time and place to be therein specified before such court; and

(c) state shortly the offence charged, the cause of action or any other reason for which such person is summoned; and

(d) be served by an officer of a local by which it is issued or to which it is sent under the provisions of rule 21, as the case may be, or by a police officer or other public officer, or by any other person specially appointed thereto by the court issuing the same; and

(e) be served personally on the person summoned by delivery or tender to him of the summons or its duplicate:

Provided that where personal service of such summons is not practicable, it may be served in such manner as may be prescribed under the provisions of rule 20. Preparation and service of summons

20. Where it appears to a member of a local court (either after or without an attempt at personal service) that, for any reason, personal service cannot conveniently be effected, he may order that service be effected, either-

(a) by delivery of the document to some adult person at the usual or last known place of abode or place of business or village of the person to be served; or

(b) by placing the document in an envelope and addressing and posting the same by prepaid registered post to the person to be served at his last known address. Service by other methods

21. (1) In this rule, unless the context otherwise requires-

"issuing court" means the local court by which any process is issued;

"process" means any summons, warrant or other process issued by a local court;

"receiving court" means the local court to which any process is sent in accordance with the provisions of this rule. Execution of process

(2) Any process issued by a local court may be served or executed at any place within the area of jurisdiction of the authorised officer within whose area of jurisdiction the issuing court is situate.

(3) Where any process is to be served or executed outside the area of jurisdiction of the authorised officer within whose area of jurisdiction the issuing court is situate, such court shall send the process to such authorised officer, and upon receipt thereof the authorised officer shall, if satisfied that the process was lawfully issued, endorse the same and send it to the local court whose jurisdiction includes the place where the process is to be served or executed, and the receiving court shall endorse such process and shall cause it to be served or executed as if it had been issued by the receiving court.

22. An affidavit that a summons, warrant or other process has been served or executed under the provisions of these Rules, or an endorsement that such summons, warrant or other process has not or cannot be so served or executed, or a certificate of posting by registered post shall be made or produced by the person by whom such service or execution was effected or attempted: Affidavits of service

Provided that no such affidavit shall be required when the person who served or executed any summons, warrant or other process gives evidence to that effect in the court concerned.

23. On fixing the date for hearing any case, the registrar or clerk of the local court shall take account of the necessity for service of process to be effected on the defendant or on any witnesses to be summoned not less than seven clear days before the date of hearing; and every summons to a defendant or witness shall be served not less than seven clear days before the date of hearing. Date for hearing

PART VIII

APPEALS

24. At the conclusion of every case in a local court, the court shall inform the parties of their rights of appeal. Notifying rights of appeal

25. Any interested party who is aggrieved by any judgment, order or decision of a local court given or made in the case in which he was concerned, and which has not been revised, and who desires to appeal, shall give notice of appeal in the prescribed form to the clerk of the local court who shall transmit to the appellate court such notice of appeal together with the record of the case and the judgment or order therein. Notice of appeal

26. If a convicted person in prison desires to appeal, he shall inform the officer in charge of the prison, who shall thereupon take immediate steps to transmit notice of the appeal to the clerk of the local court by which he was convicted. Convicted person in prison

27. Every appellant shall be entitled, if he so desires, to be present at the hearing of his appeal and to be heard either personally or by a legal practitioner. If he does not desire to be present or to be heard either personally or by a legal practitioner, then the appellate court shall decide the appeal without hearing argument, unless it sees fit to direct otherwise, on the documents forwarded to it in accordance with the provisions of rule 25. Procedure on appeal

28. Obsolete.

PART IX

MISCELLANEOUS PROVISIONS

29. In the event of the arrest without warrant of any person by an officer of a local court, such officer shall notify the person being arrested of the reason for his arrest and, unless he shall sooner release such person, shall, without unnecessary delay, bring the person arrested before a local court, or a Subordinate Court, having jurisdiction over the place where the arrest was effected, to be further dealt with according to law. Arrests without warrant

30. In any case in which an authorised officer proposes, in exercise of his powers under section fifty-four of the Act, to revise any judgment in a criminal case heard in a local court by enhancing, quashing or otherwise varying such judgment to the prejudice of the accused, an opportunity must be given to the accused of being heard. Enhancing or varying decisions in criminal cases

31. The allowances and expenses which may be paid to witnesses and assessors in cases heard in local courts shall be the same as those paid in a Subordinate Court. Allowances and expenses payable to witnesses and assessors

32. When any case is transferred from the High Court or a Subordinate Court to a local court for trial or retrial, the procedure described in section sixty of the Act shall, mutatis mutandis, be followed. Cases transferred

FIRST SCHEDULE

(Rule 8)

FEES PAYABLE IN LOCAL COURTS

1. For the issue of a summons to a defendant in a civil case, on application by

Fee units

a party thereto 2

2. For the issue of a summons to a witness in a civil case on application by a

party thereto 2

3. As hearing fee in respect of a civil case Not less than 10 and not more than 15 as the court may direct

4. On execution of a warrant of distress 150 or such less sum as the court may direct

5. On entering appeal to a Subordinate court 15
6. For each copy of any records of a case supplied for other than official use
3 per page or part thereof
7. For the issue of a marriage certificate to parties to a customary law
marriage 2 per page or part thereof
8. For the issue of a divorce certificate to parties to a customary law
marriage
upon dissolution of their marriage 2

(As amended by S.I. No. 97 of 1997, No. 170 of 1990, No. 46 of 1995 and Act No.
13 of 1994)

SECOND SCHEDULE

(Rule 6)

FORM L.C.1

FORMS AND RECORDS FOR USE IN LOCAL COURTS

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

SUMMONS TO DEFENDANT IN CIVIL CASE

IN THE

.....
LOCAL COURT DIVISION

To

.....
..... of :

You are hereby commanded in the name of the President to appear before this Court on the day of, 19....., atm. or any later time at which the hearing of your case may begin, to answer a claim made by (plaintiff) of

(address)

The plaintiff claims

(give details enough to show defendant what he has to answer,

e.g. state "divorce", "compensation", "refund", or as the case may be, and amount

claimed if applicable, with reason for such claim mentioning names concerned and place

and date, and state any amount or thing offered in return)

together with the costs of this case incurred by him.

Date Stamp of Court

.....
Court Registrar or Clerk

(NOTE.-If the Court approves, Form L.C.2 (for Consent to Judgment) may be made out and attached to the original of this Summons before it is sent for service.)

ENDORSEMENT OF SERVICE (ON DUPLICATE) OR NON-SERVICE

*The original of this Summons was served by me on the said on the

....., 19....., at
.....

(place)

*This Summons has not been served because

Date, 19....

.....

Signature of person required to

serve Summons

(ON SUBSEQUENT SERVICE)

The original of this Summons was served by me on the said , on
the19....., at

.....

(place)

Date, 19....

.....

Signature of person required to

serve Summons

* Delete item not applicable.

(See Reverse for Other Endorsements)

[On reverse]

ENDORSEMENTS

If person summoned is in different District, outside area of jurisdiction of
the authorised officer within whose area of jurisdiction the issuing court is
situated, endorsement by authorised officer.

Date Stamp Endorsed:

.....

Signature

Endorsement by Local Court within whose area of jurisdiction Summons is to

be served.

Date Stamp Endorsed:

.....

Local Court Justice

FORM L.C.2

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

NOTICE AND FORM FOR CONSENT TO JUDGMENT

(for attachment to Original of Summons to Defendant)

IN THE..... LOCAL COURT, DIVISION.

To of

Whereas Summons No. dated the, 19....., has been issued and served upon you, ordering you to appear before this Court on the 19....., to answer the claim made against you by which is set forth therein;

Take notice that if you do not wish to appear in person to answer the said claim, you will be excused from appearing on the date ordered in the said Summons if you sign (before a witness) and detach the *Consent to Judgment hereunder and have it sent to reach this Court before the said date, whereupon the Court may agree to give judgment in your absence for payment by you of the total amount stated in such Consent, or it may adjourn the case and order you to appear for the hearing thereof at a specified later date. If you do not use the Consent to Judgment as aforesaid, you must appear in person on the date ordered by the said Summons.

If you sign and send the Consent to Judgment as aforesaid, you must pay into Court the total amount stated therein not later than the date for payment stated therein, and if you do not do so by such date you may be ordered to pay extra costs in addition to such amount.

Date Stamp of Court

Local Court Justice

* To be completed as fully as possible, by court issuing Summons.

(To detach Consent to Judgment, cut along dotted line)

CONSENT TO JUDGMENT

I, , apply to be excused from appearing in person on the, 19....., to answer the claim made against me by as ordered by Summons No. issued on the 19....., by the Local

Court; and hereby agree to accept the said Court's judgment on the said claim although given against me in my absence to the extent of the total amount herein stated, and I undertake to pay into Court not later than the, 19...., in satisfaction of such claim, the sum of fee units plus the cost of serving the said Summons, made up as follows:

Amount claimed	
Summons fee	3 fee units
Hearing fee	
.....	
Witness}fee units	, plus cost
of serving Summons:	*
=Total amount in fee units	*
.....	
	Defendant

Date, 19.....

* To be inserted by court serving Summons.

(As amended by Act No. 13 of 1994)

FORM L.C.3

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

SUMMONS TO ACCUSED

IN THE
LOCAL COURT, DIVISION.

To
.....
..... of

You are hereby commanded in the name of the President to appear before this Court on the day of
....., 19....., at
.....m. or any later time at which the hearing of your case may begin, to answer a charge that you committed the offence of

(state offence, with time and place and law contravened)

(NO FEE)

Date Stamp of Court
.....

Court Registrar or Clerk

ENDORSEMENT OF SERVICE (ON DUPLICATE) OR NON-SERVICE

* The original of this Summons was served by me on the said on the
....., 19....., at
.....

(place)

* This Summons has not been served because

Date, 19....
.....

Signature of person required to

serve Summons

(ON SUBSEQUENT SERVICE)

The original of this Summons was served by me on the said
..... on the
....., 19....., at

place

Date, 19....
.....

Signature of person required to
serve Summons

* Delete item not applicable.

(See Reverse for Other Endorsements)

[On reverse]

ENDORSEMENTS

If person summoned is in different District, outside area of jurisdiction of the authorised officer within whose area of jurisdiction the issuing court is situated, endorsement by authorised officer.

Date Stamp Endorsed:

Signature

Endorsement by Local Court within whose area of jurisdiction Summons is to be served.

Date Stamp Endorsed:

Local Court Justice

FORM L.C.4

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

WARRANT TO ARREST ACCUSED

IN THE

.....LOCAL
COURT, DIVISION.

To, Local Court
Messenger, and other Officers:

Whereas

..... of

is charged with the offence of

(state offence, with time and place and law contravened)

*and following his release on bail the Court is of the opinion that

*the security for his due appearance is insufficient,

*by reason of imminent departure by him from Zambia, it is unlikely that he
will make due appearance or comply
with all other conditions of his release on bail.

You are hereby ordered to apprehend the said person and produce him without
unnecessary delay before this Court to answer the said charge or be committed
for trial thereon and be further dealt with according to law.

Date Stamp of Court

.....

Local Court Justice

* Delete this paragraph if not applicable or item thereof which is not
applicable.

ENDORSEMENT OF EXECUTION OR NON-EXECUTION

*This Warrant was executed by me on the , 19at
.....

(place)

*This Warrant has not been executed because

Date ,
19.....
.....

Signature of person required to
execute Warrant

(ON SUBSEQUENT EXECUTION)

*This Warrant was executed by me on the , 19.....,
at

(place)

Date ,
19.....
.....
...

Signature of person required to
execute Warrant

*Delete item not applicable.

(See Reverse for Other Endorsements)

[On reverse]

ENDORSEMENTS

If person to be apprehended is in different District, outside area of jurisdiction of the authorised officer within whose area of jurisdiction the issuing court is situated, endorsement by authorised officer.

Date Stamp Endorsed:

Signature

Endorsement by Local Court within whose area of jurisdiction warrant of arrest is to be executed.

Date Stamp Endorsed:

Local Court Justice

FORM L.C.5

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

SUMMONS TO WITNESS IN CIVIL CASE ON APPLICATION BY PARTY

IN THE
LOCAL COURT, DIVISION.

To
..... of

You are hereby commanded in the name of the President to appear before this Court on the day of , 19 , at or any later time at which the hearing of the case concerned may begin, to give evidence in the case of versus , which relates to a claim for

(state briefly nature of claim)

Date Stamp of Court

Court Registrar or Clerk

ENDORSEMENT OF SERVICE (ON DUPLICATE) OR NON-SERVICE

*The original of this Summons was served by me on the said on the , 19..... , at

(place)

*This Summons has not been served because

.....
.....

Date ,
19.....
.....

Signature of person required to

serve Summons

(ON SUBSEQUENT SERVICE)

The original of this Summons was served by me on the
said..... on
the, 19....., at
.....

(place)

Date,
19.....
.....
...

Signature of person required to
serve Summons

*Delete item not applicable.

(See Reverse for Other Endorsements)

[On reverse]

ENDORSEMENTS

If person summoned is in different District, outside area of jurisdiction of
the authorised officer within whose area of jurisdiction the issuing court is
situated, endorsement by authorised officer.

Date Stamp Endorsed:

Signature

Endorsement by Local Court within whose area of jurisdiction Summons is to
be served.

Date Stamp Endorsed:

Local Court Justice

FORM L.C.6

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

SUMMONS TO WITNESS, IN CIVIL CASE AT COURT'S INSTANCE, OR IN CRIMINAL CASE, TO ATTEND HEARING

IN THE.....
LOCAL COURT, DIVISION.

To
.....
..... of

You are hereby commanded in the name of the President to appear before
*the Local Court on the
..... day of. ,

*this

19....., at m. or any
later time at which the hearing of the case concerned may begin, to give
evidence in the case of..... versus,
which relates to a *claim for

*charge of (state briefly nature of claim or offence)

(NO FEE)

Date Stamp of Court

Court Registrar or Clerk

*Delete words not applicable.

ENDORSEMENT OF SERVICE (ON DUPLICATE) OR NON-SERVICE

*The original of this Summons was served by me on the said
on the, 19....., at
.....

(place)

*This Summons has not been served because

.....
.....

Date
.....,
19.....
.....

Signature of person required to
serve Summons

(ON SUBSEQUENT SERVICE)

The original of this Summons was served by me on the said
on the, 19....., at
.....

(place)

Date
.....,
19.....
.....

Signature of person required to
serve Summons

* Delete item not applicable.

(See Reverse for Other Endorsements)

[On reverse]

ENDORSEMENTS

If person summoned is in different District, outside area of jurisdiction of
the authorised officer within whose area of jurisdiction the issuing court is
situated, endorsement by authorised officer.

Date Stamp Endorsed:

Signature

Endorsement by Local Court within whose area of jurisdiction Summons is to
be served.

Date Stamp Endorsed:

Local Court Justice

FORM L.C.7

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

SEARCH WARRANT

IN THE
LOCAL COURT, DIVISION.

To
Local Court Messenger, and other Officers:

Whereas this Court has been satisfied by evidence given to it by
of that the following articles alleged by him to have been

(e.g. "used in assault on
at", "stolen from
.....", or as the case may be) may be
in

(specify building, etc., or place)

which is under the control of

You are hereby authorised and ordered to search without unnecessary delay
the said

(building, etc., or place)

* in the day time* for the said articles, and on finding any of them to seize
them and produce them to the
.....
. Court to be dealt with according to law.

Date Stamp of Court

Local Court Justice

* Delete and substitute "during either the day or the night" if Court
authorises night search.

ENDORSEMENT OF EXECUTION OR NON-EXECUTION

*This Warrant was executed by me by searching as aforesaid on the
....., 19, and making seizure
and production as required thereby.

*This Warrant has not been executed because

Date

.....,
19.....
.....
..

Signature of person required to
execute Warrant

(ON SUBSEQUENT EXECUTION)

*This Warrant was executed by me by searching as aforesaid on the
....., 19, and making seizure and production as required thereby.

Date

.....,
19.....
.....
..

Signature of person required to
execute Warrant

* Delete item not applicable.

(See Reverse for Other Endorsements)

[On reverse]

ENDORSEMENTS

If place, etc., to be searched is outside area of jurisdiction of the
authorised officer, within whose area of jurisdiction the issuing court is
situated, endorsement by authorised officer.

Date Stamp Endorsed:

Signature

Endorsement by Local Court within whose area of jurisdiction search warrant
is to be executed.

Date Stamp Endorsed:

Local Court Justice

FORM L.C.8

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

NOTICE OF HEARING OF CASE

IN THE
LOCAL COURT, DIVISION.

To
..... of
 plaintiff

complainant in the case of versus
.....

for

 (state briefly nature of claim or offence)

Take notice that the said case is set down for hearing by this Court on the
.....
day of, 19.....,
and you are required to appear before it on that day,
at..... m. or any later time at which the hearing of
the said case may begin, together with your witnesses and any articles or papers
to be produced as evidence, for the purpose of such hearing.

If, without having shown good reason, you do not so appear, the Court may
dismiss your

 claim

complaint.

If for good reason you wish the said hearing date to be changed, you must
apply as soon as possible to this Court for such change to be made.

Date Stamp of Court

 Court Registrar or Clerk

ACKNOWLEDGMENT (ON DUPLICATE)

 I have received the original of the above Notice and

*will appear as required.

*apply for the date to be changed to the
 , 19....., because

.....
.....

Date,
19.....

Signature

* Delete words not applicable.

FORM L.C.9

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

WARRANT OF COMMITMENT ON REMAND

IN THE.....
LOCAL COURT, DIVISION.

To, Local Court Messenger, and other Officers, and the Officer in charge of the Government Prison at

You are hereby required to lodge of, apparent age years, who is accused of the offence of

(state offence, with time and place and law contravened)

in the said prison, together with this Warrant, in which prison the said person shall be kept in custody (subject to any release on bail that may be ordered) until the * day of, 19, whereupon the said person shall be brought before the Court at to be dealt with according to law.

(place)

Date Stamp of Court

Local Court Justice

* Not more than fifteen days after date of Warrant.

ENDORSEMENTS

The Court, on production before it of the said person, orders the extension of the said period of custody until the *.....day of....., 19.....

Date Stamp of Court

Local Court Justice

* Not more than fifteen days after date of order.

The Court, as above, orders the said period to be further extended to the

*.....,19.....

Date Stamp of Court

Local Court Justice

* Not more than fifteen days after date of order.

FORM L.C.10

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

CASE-RECORD-CRIMINAL CASES: LOCAL COURT

CASE No. _____ OF 19 _____ .

IN THE.....
LOCAL COURT, _____ DIVISION.

.....
DISTRICT, holden at

before

on the _____ day of _____
19 _____ , at _____ o'clock in the
_____ noon.

THE PEOPLE versus

Tribe _____ Residential address

Village

Chief

District _____ Postal address

Occupation

Age _____ Sex

Accused was served on with
a Summons dated

Accused was arrested on under
Warrant dated

Accused was arrested without Warrant on

Accused was released on bail or on his own recognizance on .

CHARGE:

(1st Count)

(If space insufficient, continue overleaf)

Statement of offence:

Particulars of offence:

Local Court Justice or Public Prosecutor

[P.T.O.]

[On reverse]

Prosecutor:

Interpreter:

Charge explained to accused:

Accused, when called upon to plead, says:

The Court records a plea of:

FORM L.C.12

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

CERTIFICATE OF JUDGMENT

IN THE.....
LOCAL COURT, DIVISION.

 This is to certify that, in the case of
.....
.... versus

 for

 (state briefly nature of claim or offence)

Case No. of 19....., which was decided by this Court on the
....., 19, the Judgment
of the Court was as follows:

 Verdict (state names concerned)

 Order (state names concerned)

Date Stamp of Court

 Court Registrar or Clerk

FORM L.C.13

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

WARRANT OF DISTRESS

IN THE.....
LOCAL COURT, DIVISION.

To, Local Court Messenger,
and other Officers:

Whereas of

was on the day of
....., 19, ordered by this Court,
in Case No of 19, to pay the sum of
..... *and the sum of as costs*, by the
..... day of, 19, and
has not made such payment as ordered;

You are hereby ordered to seize and sell, without unnecessary delay, the
property of the said person to the extent of obtaining thereby the sum of
..... being the amount due from him at this date under the
said order to pay, together with the sum of, being the fee for
execution of this Warrant, and to deliver the said sums, together with this
Warrant and a list of the articles sold in executing it showing the amount
received for each article by such sale, to this Court to be dealt with according
to law.

If, before or during such sale, the amount which is or remains due from the
said person as aforesaid is paid to you, the sale shall not be proceeded with.

The following forms of property shall not be sold without the consent of the
owner:

- (a) personal clothing, bedding or household utensils;
- (b) tools for cultivation or trade tools;
- (c) food grown by the said person which is needed for feeding himself, his
spouse or his dependants;
- (d) Property said to belong partly or wholly to another person, if the Court
agrees that it so belongs.

Date Stamp of Court

Local Court Justice

ENDORSEMENT OF EXECUTION OR NON-EXECUTION

*This Warrant was executed by me on the

....., 19, at
.....,

(place)

and a list of articles sold and amounts received thereby is attached.

*This Warrant has not been executed because

.....

Date, 19.....

Signature of person required to

execute Warrant

(ON SUBSEQUENT EXECUTION)

This Warrant was executed by me on the

....., 19, at
.....,

(place)

and a list of articles sold and amounts received thereby is attached.

Date, 19.....

Signature of person required to

execute Warrant

*Delete item not applicable.

15 fee units or such less sum as the Court may specify.

(See Reverse for Other Endorsements)

[On reverse]

ENDORSEMENTS

If property to be sold is outside area of jurisdiction of the authorised officer within whose area of jurisdiction the issuing court is situated, endorsement by authorised officer.

Date Stamp Endorsed:

Signature

Endorsement by Local Court within whose area of jurisdiction warrant of distress is to be executed.

Date Stamp Endorsed:

Local Court Justice

(As amended by Act No. 13 of 1994)

FORM L.C.14

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

WARRANT OF COMMITMENT ON DEFAULT OF PAYMENT

IN THE.....
LOCAL COURT, DIVISION.

To, Local Court
Messenger, and other Officers, and the Officer in charge of the Government
Prison at

Whereas
..... of ,
apparent age years, was convicted by this Court in Case
No. of 19..... of the offence of

(state offence, with time and place and law contravened)

and was ordered therein on the day
of, 19....., to pay the sum of
.....* forthwith*/*by the
....., 19.....* or in default

to be imprisoned *with hard labour for
..... and whereas
.....

*without (period)

of the said sum has not been paid as so ordered;

You are hereby required to lodge the said person in the said prison,
together with this Warrant, in which prison the said person shall be imprisoned
*with hard labour (subject to any release on bail that may

*without

be ordered pending appeal) for the period of
..... from the
....., 19....., or until within the said period the
said sum of is paid.

Upon the payment within such period of any part of the said sum of
....., the said period shall be proportionately
reduced.

Date Stamp of Court

Local Court Justice

* Delete words not applicable.

Delete if not applicable.

CERTIFICATE BY AUTHORISED OFFICER

I certify that I have, under the Local Courts Rules, confirmed the conviction in the above-mentioned case, and have-

confirmed the imprisonment ordered therein as shown in this Warrant.

*varied the imprisonment ordered therein to

(period)

I.H.L./*S.I. from the,
19....., and have amended the Warrant accordingly.*

Date Stamp

Signature and Title of Officer

*Delete words not applicable.

FORM L.C.15

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

WARRANT OF COMMITMENT FOR IMPRISONMENT OR CANING

IN THE.....
LOCAL COURT, DIVISION.

To, Local Court
Messenger, and other Officers, and the Officer in charge of the Government
Prison at

Whereas of ,

apparent age years, was convicted by this Court in Case
No. of 19..... of the offence of

(state offence, with time and place and law contravened)

and was ordered therein on the day
of, 19....., to be

{*imprisoned with/*without hard labour for from the
(period)

....., 19*

caned with strokes.}

IMPRISONMENT. You are hereby required to lodge the said person in the
said prison, together with this Warrant, in which prison the said person shall
be imprisoned *with hard labour (subject to any release on

*without

bail that may be ordered pending appeal) for the period of
..... from the, 19.....

CANING. You are hereby required to lodge the said person, being-

{under the apparent age of 18 years, in the lock-up of the
.....
at }over the apparent age of 18 years, in the
said prison,

in the precincts whereof the said person shall be kept in custody and in due course shall, subject to the law regarding appeals (section 56 of the Local Courts Act), and in the presence of an officer empowered to revise Local Court decisions and not in public, have strokes of a cane administered to him according to law.

Date Stamp of Court

Local Court Justice

* Delete words not applicable. Delete item not applicable.

Delete paragraph not applicable. Delete if to be caned in prison.

CERTIFICATE BY AUTHORISED OFFICER

I certify that I have, under *the Local Courts Rules/*section 43 of the Local Courts Act, confirmed the conviction in the above-mentioned case and have-
*confirmed the imprisonment/*caning ordered therein as shown in this Warrant.*
*varied the imprisonment/*caning ordered therein.

to*{*.....I.H.L./*S.I. from the
....., 19.....*

(period)}*.....strokes of a cane,*

and have amended the Warrant accordingly.*

Date Stamp

Signature and Title of Officer

*Delete words not applicable.

FORM L.C.17

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

BAIL BOND (RECOGNIZANCE)

IN THE.....
LOCAL COURT, DIVISION.

Whereas

..... of

is in custody upon a charge of

..... on the

....., 19.....,

at contrary to

....., and is required to appear before the

..... Court to answer the said charge at

..... o'clock in the noon on the

..... day of,

19....., at, and to attend before such court until

the hearing of this case shall be completed or adjourned, and if it be adjourned

to appear and attend as aforesaid at every time and place to which during the

course of the proceedings such hearing may from time to time be adjourned;

The undersigned principal party to this recognizance, being the person in custody aforesaid, hereby binds himself to perform the following obligations if now released, namely:

To appear and attend before the Court as aforesaid *and to comply with the following conditions until the said attendance be completed:

(a)

and (b)

and (c) ;*

And the said principal party *and the undersigned sureties* hereby *acknowledges himself/severally acknowledge themselves* bound to forfeit to the Court before which such principal party is bound as aforesaid to appear the sums following, namely: the said principal party the sum of fee units,

and the said sureties the sum of fee units each, in case the said principal party fails to perform *any of* the above obligations or any part thereof.

Signed{ Principal Party* } Sureties*

Taken before the undersigned at
..... on the
..... day of
....., 19.....

In consideration of the above bond, the said principal party, being the person in custody aforesaid, is now released.

Date Stamp of Court

Local Court Justice

*Delete words not applicable.

(Endorsements on Reverse)

[On reverse]

ENDORSEMENT ON PERFORMANCE OR NON-PERFORMANCE OF OBLIGATION

A. The above bail bond stands discharged with effect from the
.....,
19.....

Date Stamp of Court

.....
...

Local Court Justice

B. I certify that the aforesaid principal party has not performed the following obligation:

*to appear and attend at Court as aforesaid.

*to comply with the condition that he should

.....

The Court accordingly declares the above bail bond to be forfeited and is instituting legal proceedings for recovery of the amounts due thereunder, which will be taken into the revenue of the Court, and has issued a warrant for the arrest and production before it of the aforesaid principal party.

Date Stamp of Court

Local Court Justice

The Court on the appearance before it of the said principal party has issued a warrant for his commitment for trial on the charge mentioned in the above bail bond.

Date Stamp of Court

Local Court Justice

*Delete words not applicable.

FORM L.C.18

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

NOTICE OF HEARING OF APPEAL, TO APPELLANT

IN THE SUBORDINATE COURT of the
class, for
District, holden at
....., before
.....

To of ,

Appellant in the Case of versus

for . (Case No.

(state briefly nature of claim or offence)

of 19..... of theLocal
Court):

Take notice that your appeal in the said case is set down for hearing by the
Subordinate Court of
the class, at

(place)

on the day of
....., 19....., and you are required to appear
before it on that day, atm. or any later time at
which the hearing of the said appeal may begin, together with your witnesses and
any articles or papers that may be required as evidence, for the purpose of such
hearing.

If, without having shown good reason, you do not so appear, the Court may
dismiss your appeal.

If for good reason you wish the said hearing date to be changed, you must
apply, as soon as possible, to this Court or to the Court above mentioned which
is to hear your appeal, for such change to be made.

Date Stamp of Court

Clerk of the Court

ACKNOWLEDGEMENT (ON DUPLICATE)

I have received the original of the above Notice and

*will appear as required.

*apply for the date to be changed to the , 19.....
because

Date , 19.....

.....

Signature

FORM L.C.19

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

NOTICE OF HEARING OF APPEAL, TO RESPONDENT

IN THE SUBORDINATE COURT of the class for

District, holden at before

To of

Take notice that . has entered an appeal against the decision of the Local Court in the case of versus

for (Case No. of

(state briefly nature of claim or offence)

19..... of such Court), and that the said appeal is set down for hearing by the Subordinate Court of the class at on the..... day of, 19....., (place)

and you are required to appear before it on that day, atm. or any later time at which the hearing of the said appeal may begin, together with your witnesses and any articles or papers that may be required as evidence, for the purpose of such hearing.

If, without having shown good reason, you do not so appear, the Court may if it thinks fit give judgment in your absence after noting the evidence given to it during such hearing, which may be judgment against you.

If for good reason you wish the said hearing date to be changed, you must apply, as soon as possible, to this Court or to the Court above mentioned which is to hear the appeal, for such change to be made.

Date Stamp of Court

Clerk of Court

ACKNOWLEDGEMENT (ON DUPLICATE)

I have received the original of the above Notice and

*will appear as required.

*apply for the date to be changed to the

..... 19.....
because

Date, 19.....

Signature

* Delete words not applicable.

FORM L.C.20

Page

{RECORD OF CRIMINAL CASES

RETURN OF CRIMINAL CASES DISPOSED OF DURING
....., 19.....LOCAL COURT OF
.....

Before

Case
No.

Defendant, stating
Tribe, and whether
villager, employed
(stating nature of
work, and pay if
disclosed), or
unemployed

Sex
and
Age

Prosecutor

Date of
Summons or
Arrest (state)
"S" or "A")
If released on
bail add "R"
and date

Date of first
appearance
and adjourn-
ments, if any

Charge, quoting
Act and
section, etc.,
contravened

Plea
Entered

Judgement

SentenceRemarks

If fine paid,
show receipt No.

If committal for
non-payment record
this fact.

If case still pending
at date of return
give reason. State
if appeal lodged

Registrar/Court Clerk

.....

To: The Registrar of the High Court, P.O. Box RW.67, Lusaka. Where more than one form is required for the return, only the last form in the return need be signed.

THE LOCAL COURTS ACT

OUTSTANDING FINES REGISTER

In the Local Court,
..... division

Date
Fine
OrderedCase
No.To be Paid by
(Name and address)Total
to be
paidDate(s) to pay
Total or Instalments
Date AmountDate and Amount
of each actual payment
Date AmountReceipt
No.Balance
dueRemarks
(E.g.: Fully paid. Committed
i/d on ../../, etc).

FORM L.C.23

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

NOTICE OF APPEAL IN CRIMINAL CASES

1. To the Clerk of the Court of the Subordinate Court of the Class
for the District, holden at

2. Name of Appellant
.....

3. Appeal against *order/conviction/sentence by the
.....Local Court.

4. Offence of which convicted
.....
.....

5. *Order/sentence of Court
.....
.....

6. Date when convicted

7. Date when sentence passed .
.....

8. *Name of prison/address of Appellant
.....
.....

I, the above-named Appellant, hereby give you notice that I desire to appeal
to the Subordinate Court of
the . Class for the.....
District, holden at

..... against the said
*order

*conviction

*sentence

on the following grounds.

GROUND OF APPEAL

Signature/thumbprint
.....

Appellant

.....

Witness

.....

Local Court Clerk

Dated thisday of
....., 19.....

* Delete word not applicable.

If space is insufficient, continue overleaf.

FORM L.C.24

REPUBLIC OF ZAMBIA

THE LOCAL COURTS ACT

NOTICE OF APPEAL IN CIVIL CASES

- 1. To the Clerk of the Court of the Subordinate Court of the
... Class
for the
District, holden at
- 2. Name of Appellant
- 3. Name of Respondent
- 4. Appeal against *order/decision by the Local Court.
- 5. Nature of claim
- 6. *Order/decision of Court
- 7. Date of order/decision
- 8. Address of Appellant

I, the above-named Appellant, hereby give you notice that I desire to appeal to the Subordinate Court of the
Class for the District, holden at

against the said *order

*decision

on the following grounds.

GROUND OF APPEAL

Signature/thumbprint
.....

Appellant
.....

Witness
.....

Local Court Clerk

Dated thisday of
....., 19.....

* Delete word not applicable.

If space is insufficient, continue overleaf.

SECTION 68-THE LOCAL COURTS (ADMINISTRATION OF ESTATES) RULES Statutory
Instrument
297 of 1969

Rules by the Chief Justice

1. These Rules may be cited as the Local Courts (Administration of Estates) Rules. Title

2. Before making an order under section thirty-six (1) of the Act, a local court shall determine whether the deceased person died intestate and whether he was a person whose estate falls to be administered or distributed in terms of African customary law. Order

3. (1) When a local court appoints an administrator of an estate under the provisions of section thirty-six (1) of the Act, the court shall at the time consider what, if any, provisions should be made for the purposes of paragraphs (b), (c) and (d) of section thirty-six (2) and may incorporate any such provisions in the order. Administrator

(2) Nothing in sub-rule (1) shall prohibit a local court from making further orders for the purposes of section thirty-six (2) of the Act.

4. An order appointing an administrator under section thirty-six (1) of the Act shall be substantially in the form in the Schedule. Prescribed form

5. An administrator appointed under section thirty-six (1) of the Act shall, before making any payment in respect of the share in an estate of a minor or other person under a disability, inform the local court of the circumstances and shall ascertain from the court what, if any, orders it wishes to make in this respect under the provisions of paragraph (e) of section thirty-six (2) of the Act. Estate of minor, etc.

6. An administrator shall, as soon as may be after completing the administration of an estate, furnish to the local court a statement of the assets of the estate and how they have been distributed or otherwise dealt with. Statement

SCHEDULE

(Rule 4)

ORDER OF APPOINTMENT OF ADMINISTRATOR

Case Record Number

In the Local Court.

Before Court Justices

In the matter of the estate of the late

..... [A

B]

who resided at

NOW WHEREAS the Court is satisfied that the late

.....
[A B] .

died on the
.....
day of 19.....,

and that he died intestate and was a person whose estate falls to be administered or distributed in terms of African customary law.

AND WHEREAS

.....
[CD]

being a person properly interested in the estate of

.....
[A B]

has made a request to the Court under the provisions of section 36 (1) of the Local Courts Act.

NOW THEREFORE this Court, by virtue of the powers vested in it under section 36 of the Local Courts Act, hereby appoints

.....
[C D or E F (as the case may be)]

of

to be administrator of the estate of the said

.....
[A B]

AND ALL PERSONS wishing to make claims on the said estate must submit them in writing, to the said administrator, not later than the

..... day of
..... 19....., and similarly all persons who are indebted to the deceased must make payment of such debts to the said administrator by the same date.

In the administration of the said estate the administrator shall comply with the following matters:

[Here insert such orders or requirements (if any) as the Court thinks fit in respect of the matters provided for in section 36 (2) of the Local Courts Act.]

Given under our hand this .day of

19.....

Local Court Justices

REPUBLIC OF ZAMBIA

THE LEGAL PRACTITIONERS ACT

CHAPTER 30 OF THE LAWS OF ZAMBIA

CHAPTER 30 THE LEGAL PRACTITIONERS ACTCHAPTER 30

THE LEGAL PRACTITIONERS ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation
3. Certain officers exempt from provisions of this Act

PART II

DISCIPLINARY COMMITTEE

4. Establishment of a Disciplinary Committee

PART III

ADMISSION AND ENROLMENT

5. Roll of practitioners
6. Qualification for admission as a legal practitioner
7. Repealed by Act No. 10 of 1996
8. Repealed by Act No. 10 of 1996
9. Repealed by Act No. 10 of 1996

10. Repealed by Act No. 10 of 1996
11. Professional and academic qualifications
12. Apprenticeship qualifications
13. Admission by the Chief Justice
- 13A. Undertaking as to requisite practical experience
14. Admission fee
15. Entry of name on Roll
16. Attorney-General to be appointed State Counsel for Zambia
17. Power of the President to appoint a State Counsel for Zambia and procedure for appointment
18. Limitation on appointments of State Counsel for Zambia
19. Qualification for appointment as a State Counsel for Zambia
20. Precedence of practitioners
21. (Spent)

PART IV

REMOVAL FROM AND RESTORATION TO THE ROLL

22. Removal from Roll and procedure of Disciplinary Committee
23. Rules governing Disciplinary Committee
24. Powers of Court under sections 22, 25, 27 and 28 to be exercised by two Judges
25. Consideration of report by Court
26. Representation by counsel
27. Reference of report back to Disciplinary Committee
28. Power of Court to deal with practitioner
29. Disciplinary powers of Court or Judge apart from inquiry by Disciplinary Committee
30. Power of Registrar to draw up orders
31. Orders of Court to be noted on Roll
32. Limitation of time for certain applications to strike names off Roll
33. Restoration to Roll

34. Disciplinary powers as to clerks

PART V

PRACTISING CERTIFICATES

35. Association to issue practising certificates

36. Application for practising certificates

37. Discretion of Association to refuse certificate in special cases

38. Date and period of validity of practising certificate

39. List published by Association to be prima facie evidence of practitioner holding certificate

PART VI

COMPENSATION FUND

40. Compensation Fund

PART VII

PRIVILEGES, RESTRICTIONS AND OFFENCES IN CONNECTION WITH PRACTICE

Section

41. Qualifications for practising

42. Unqualified person not to act as an advocate

43. Penalty for pretending to be an advocate

44. Offences by unqualified persons

45. Instrument to be endorsed with name and address of drawer

46. Penalty on unqualified person acting in preparation of papers for probate, etc.

47. No costs recoverable where unqualified person acts as advocate

48. Practitioner not to act as agent for unqualified person

49. Employment by practitioner of persons struck off Roll or suspended

50. Penalty on failure to disclose fact of having been struck off, etc.

51. Offences by bodies corporate

52. Offences by practitioners

53. Offences deemed professional misconduct

54. Saving as to employment of unqualified persons by qualified persons
55. Restriction upon right to employ qualified persons who are not practitioners

PART VIII

KEEPING OF ACCOUNTS BY PRACTITIONERS

56. Interpretation
57. Practitioner's accounts
58. Client's money to be paid into bank or building society
59. What money to be paid into client account
60. Withdrawing of money from client account
61. What money need not be paid into client account
62. Complaint in respect of practitioner's failure to comply with provisions
63. Evidence and deposit of costs before instituting inspection of accounts
64. Notice to practitioner: how made
65. Penalty for breach of Part VIII
66. Saving
67. Relief to banks
68. Association may require production of practitioner's books
69. Power of Association to deal with property of certain practitioners

PART IX

REMUNERATION OF PRACTITIONERS

70. Power to make general orders as to remuneration of practitioners
71. Scale of rates of commission and percentage
72. Security for payment of remuneration, and regulating interest
73. Taxation of bills of costs
74. Agreements with respect to remuneration for non-contentious business
75. Remuneration of practitioner who is a mortgagee
76. Power to make agreements as to remuneration for contentious business
77. Miscellaneous provisions as to agreements with respect to costs of

contentious business

78. In certain circumstances taxing officer may reduce amount payable under agreement

79. Death, incapability or change of practitioner, etc.

80. Agreement excludes taxation

81. Miscellaneous provisions as to remuneration for contentious business

82. Power of Court to order practitioner to deliver his bill and to deliver up deeds

83. Action to recover practitioner's costs

84. Charging orders

PART X

MISCELLANEOUS

85. Practitioners to be officers of the Court

86. Onus of proof

87. Payment of expenses of Disciplinary Committee

88. Authentication of regulations and other documents

89. Rules of court

90. General regulations

91. Saving of other written laws

92. Repeal and savings

FIRST SCHEDULE-Oath of allegiance

SECOND SCHEDULE-Provisions with regard to the formation, administration and application of the Compensation Fund and matters connected therewith

THIRD SCHEDULE-Control of property of a practitioner in certain cases

CHAPTER 30

LEGAL PRACTITIONERS 22 of 1973

21 of 1981

13 of 1994

An Act to amend and consolidate the law relating to legal practitioners

[23rd March, 1973]

PART I

PRELIMINARY

1. This Act may be cited as the Legal Practitioners Act. Short title

2. In this Act, unless the context otherwise requires- Interpretation

"Association" means the Law Association of Zambia established by the Law Association of Zambia Act; Cap. 31

"client" includes any person who, as a principal or on behalf of another, or as a trustee or personal representative, or in any other capacity, has power, expressed or implied, to retain or employ, and retains or employs a practitioner and any person who is or may be liable to pay to a practitioner any costs;

"the Compensation Fund" means the Compensation Fund to be established under the provisions of section forty;

"contentious business" includes any business done by a practitioner in any court;

"costs" includes fees, charges, disbursements, expenses and remuneration;

"the Council" means the Council of the Association;

"the Court" means the High Court;

"the Disciplinary Committee" means the Disciplinary Committee to be established under the provisions of section four;

"the Legal Practitioners Qualifying Examination" means the examination set by the Council of Legal Education, whereby qualification for admission as a practitioner may be granted pursuant to section eleven or twelve;

"non-contentious business" means any business in which a practitioner is employed other than contentious business;

"practice" means the practice of the profession of an advocate, and "practise" and "practising" shall be construed accordingly;

"practising certificate" means a certificate issued by the Association under the provisions of section thirty-five;

"practitioner" means a person who has been admitted to practice as an advocate under the provisions of this Act and whose name is duly entered on the Roll;

"a practitioner of the prescribed standing" means a practitioner of not less than five years' standing in Zambia or such lesser period as the Council of Legal Education may, in any particular case, prescribe;

"the Registrar" means the Registrar of the High Court;

"the Remuneration Committee" means the committee to be established to deal with the remuneration of practitioners in accordance with the provisions of Part IX;

"the Roll" means the list of practitioners kept in accordance with the

provisions of this Act;

"State Counsel for Zambia" means-

(a) a person who attained the rank of Queen's Counsel for the former Protectorate of Northern Rhodesia; and

(b) a person admitted to the Inner Bar of Zambia;

"unqualified person" means a person who is not a practitioner and includes a practitioner who has not in force a practising certificate.

3. (1) Every officer to whom this section applies shall, in connection with the duties of his office, be entitled to practise, and shall not, except as in this Act expressly provided, be subject to the provisions of this Act. Certain officers exempt from provisions of this Act

(2) The officers to whom this section applies are-

(a) the Attorney-General, the Solicitor-General, the Parliamentary Draftsmen, the Director of Public Prosecutions, the International Law Adviser and any Assistant International Law Adviser, the Assistant Parliamentary Draftsmen and all Senior State Advocates and State Advocates for the time being employed in the Attorney-General's Chambers;

(b) the Administrator-General and any qualified person for the time being employed in the Administrator-General's Department;

(c) the Local Courts Adviser, if a qualified person;

(d) any officer of a municipal council, if a qualified person;

(e) the Director of Legal Aid and legal aid counsel appointed under the Legal Aid Act, if qualified persons. Cap. 34

(3) Nothing in this Act contained shall be construed or deemed to prevent-

(a) an unqualified person from appearing for and representing in a court any party to any civil cause or matter, if duly authorised thereto by any rule of the Court or of subordinate courts;

(b) a District Secretary, an Assistant District Secretary or a Labour Officer, by leave of the Court or a subordinate court, as the case may be, from appearing for and representing in that court an African in any cause or matter;

(c) a Government officer, for good cause shown to the satisfaction of a court, from appearing for and representing the People, the Government, the President or the head of any Government department in any proceedings, cause or matter to which the People, the Government, the President or the head of any Government department, as the case may be, may be a party.

(4) For the purposes of this section, "qualified person" means-

(a) any person admitted as a practitioner under the provisions of this Act;

(b) any person admitted as a qualified lawyer (by whatever name called) and thereby having a right of audience before courts exercising original civil or

criminal jurisdiction in a self-governing State being, in the opinion of the Council of Legal Education established pursuant to section seven, a State which is, or was at any time, a member State, or was part of a member State, of the Commonwealth of Nations and which applies as its predominant basic system of law the Common Law or a legal system founded upon the Common Law.

PART II

DISCIPLINARY COMMITTEE

ESTABLISHMENT OF A DISCIPLINARY COMMITTEE

4. (1) There shall be established for the purposes of this Act a committee to be called the Disciplinary Committee consisting of-

(a) the Attorney-General and the Solicitor-General; and

(b) five practitioners (hereinafter referred to as nominated members) being members of and nominated by the Association, and appointed by the Minister.

(2) Every nominated member shall hold office for twelve months from the date of his nomination and shall be eligible for renomination.

(3) During the temporary absence from Zambia of any nominated member, the Disciplinary Committee may nominate any practitioner to act as a temporary nominated member in the place of such absentee until his return or until the expiration of his period of office, whichever first occurs.

(4) The Attorney-General shall be chairman of the Disciplinary Committee and shall preside at all meetings at which he is present. In the absence of the Attorney-General, the Solicitor-General, if present, shall preside. In the absence of both the Attorney-General and the Solicitor-General at any meeting of the Disciplinary Committee, the members present shall elect a member to preside at such meeting.

(5) Three members of the Disciplinary Committee shall form a quorum:

Provided that the Committee shall not sit unless it is made up of an unequal number of members.

(6) Any question before the Disciplinary Committee shall be decided by a majority of votes of the members present and every member so present shall record a vote.

(7) Members of the Disciplinary Committee, other than the Attorney-General and the Solicitor-General, shall be paid, in respect of expenses incurred by them in travelling and subsistence when discharging their duties, such sums as may be prescribed by the Minister.

PART III

ADMISSION AND ENROLMENT

5. (1) The Registrar shall keep, in accordance with the provisions of this Act and of any regulations made thereunder, a list of all the practitioners to be known as the Roll. Roll of practitioners

(2) Any name of any practitioner which immediately prior to the commencement of this Act was entered upon the Roll shall remain thereafter so entered unless removed from, or struck off the Roll pursuant to Part IV, and, subject to the provisions of section twenty, the order of precedence of such practitioners shall be according to the priority shown on the Roll existing at that date.

6. No person shall be admitted as a practitioner unless he is duly qualified in accordance with the provisions of section eleven or twelve. Qualification for admission as a legal practitioner

7. Repealed by Act No. 10 of 1996.

8. Repealed by Act No. 10 of 1996.

9. Repealed by Act No. 10 of 1996.

10. Repealed by Act No. 10 of 1996.

11. Subject to the provisions of subsection (1) of section thirteen, a person shall be entitled to be admitted as a practitioner if-Professional and academic qualifications

A. (a) he has, in consequence of an examination, obtained a degree in law from the University of Zambia or from a university outside the Republic approved by the Council of Legal Education and whose degree in law is recognized by the University of Zambia as academically equivalent to a University of Zambia degree in that subject; and

(b) (i) he has for one year attended a course of post-graduate study required by the Council of Legal Education and provided by the Zambia Institute of Advanced Legal Education and has been duly certified as having fulfilled the requirements of such course by the Director of the said Institute; or

(ii) he has, alternatively, in lieu of (i) above, after having obtained his degree, completed two years' service in the Republic as an articled clerk under articles of clerkship to a practitioner; and

(c) he has passed the Legal Practitioners Qualifying Examination; or

B. (a) he is a qualified lawyer (by whatever name called) and thereby has a right of audience before courts exercising original civil or criminal jurisdiction in a self-governing State being, in the opinion of the Council of Legal Education, a State which is, or was at any time, a member State, or was part of a member State, of the Commonwealth of Nations and which applies as its predominant basic system of law the Common Law or a legal system founded upon the Common Law; and

(b) (i) (I) as such, he has been a practising lawyer of not less than three years' standing

in the State in which he is so entitled to practise; and

(II) he has been actively employed for not less than six months in the Republic in the office of a practitioner of the prescribed standing, or in a judicial or legal capacity in a department of Government prescribed by the Minister, or in the department of a Town Clerk who is admitted as a practitioner under this Act, and his said employer, or the public officer in charge of the

said department of Government in which he has so served, or under whom he has so worked, as the case may be, has certified his work as being satisfactory; or alternatively, he has for one year attended a course of post-graduate study required by the Council of Legal Education and provided by the Zambia Institute of Advanced Legal Education, and has been duly certified as having fulfilled the requirements of such course by the Director of the said Institute; and

(III) he has passed such parts of the Legal Practitioners Qualifying Examination set by the Council of Legal Education as may be specified by the said Council; or

(ii) (I) as such, he has been a practising lawyer of not less than three years' standing in the State in which he is so entitled to practise; and the Council of Legal Education, after consultation with the Minister and the Chief Justice, deems his qualifications to be sufficient for the purposes of this section; and

(II) he has been actively employed for not less than one year in the Republic in the office of a practitioner of the prescribed standing, or in a judicial or legal capacity in a department of Government prescribed by the Minister, or in the department of a Town Clerk who is admitted as a practitioner under this Act, and his said employer, or the public officer in charge of the department of Government in which he has so served, or the Town Clerk under whom he has so worked, as the case may be, has certified his work as being satisfactory; or alternatively, he has for one year attended a course of post-graduate study required by the Council of Legal Education and provided by the Zambia Institute of Advanced Legal Education, and has been duly certified as having fulfilled the requirements of such course by the Director of the said Institute; and

(III) he has passed the Legal Practitioners Qualifying Examination set by the Council of Legal Education.

12. (1) Notwithstanding the provisions of section eleven and subject to the provisions of subsection (1) of section thirteen, a person shall be admitted as a practitioner if-Apprenticeship qualifications

(a) he has completed the prescribed period of service in the Republic as an articled clerk under articles of clerkship to a practitioner of the prescribed standing; and

(b) he has, in consequence of an examination conducted by the University of Zambia, obtained a degree in law from that University, or alternatively, he has passed the prescribed examination; and

(c) he has passed the Legal Practitioners Qualifying Examination set by the Council of Legal Education.

(2) For the purposes of this section-

(a) the term "prescribed period of service" means such period of service as is prescribed by the Council of Legal Education, and in this regard the Council of Legal Education may prescribe different periods for different persons or different classes of persons having regard to the actual experience of such persons in the office of a practitioner of the prescribed standing and to such

other matters as the said Council may deem relevant;

(b) the term "prescribed examination" means such examination as the Council of Legal Education may require to be undergone by any person or class of persons in lieu of the obtaining of a degree in law from the University of Zambia.

13. (1) Any person who-Admission by the Chief Justice

(a) produces to the Chief Justice a certificate issued by the Council of Legal Education certifying him as having complied with the applicable provisions of section eleven or twelve; and

(b) satisfies the Chief Justice that he is of good character;

may apply to the Chief Justice to be admitted as a practitioner.

(2) Every application made under the provisions of subsection (1) shall be by petition to the Chief Justice and shall include an undertaking in writing as to requisite practical experience in such form and manner as the Chief Justice may prescribe.

(3) Upon application being made pursuant to this section and upon production of such testimonials as to character as he may require, the Chief Justice may, in his discretion, after the applicant has taken the oath or oaths set forth in the First Schedule, by writing under his hand grant to the applicant a certificate of admission as a practitioner.

(As amended by Act No. 21 of 1981)

13A. (1) An applicant to whom section thirteen applies shall be deemed, in his undertaking as to requisite practical experience, to have undertaken-Undertaking as to requisite practical experience

(a) that he shall not, until he has satisfied the Association that he has gained the requisite practical experience-

(i) set up a legal practice, open a law office or in any way practice law on his own account;

(ii) establish or become a partner in, any firm of lawyers; or

(iii) appear before the Supreme Court; and

(b) that if he violates any of the terms of the undertaking, he shall, in addition to being in contempt of court, be deemed to be guilty of professional misconduct.

(2) In this part, "requisite practical experience" means such active employment for a continuous period of, or for periods amounting in all to, three years as shall have been certified as being satisfactory by the relevant practitioner of the prescribed standing or head of the relevant department, as the case may be, in-

(a) the office of a practitioner of the prescribed standing;

(b) a firm of practitioners where at least one supervising partner was, throughout the period of such employment, a practitioner of the prescribed

standing;

(c) a judicial or legal capacity in the Judicial Department, the Attorney General's Chambers, the Directorate of Legal Aid, the Lands Department, the Chambers of the Director of Public Prosecutions, the Administrator-General's Department, or any other department of the Government which may be approved for the purpose by the Chief Justice in consultation with the Attorney-General;

(d) the legal department of a district council, a statutory corporation, a company or organisation, where at least one supervising officer was, throughout the period of such employment, a practitioner of the prescribed standing; or

(e) such other capacity or office as the Chief Justice may, in consultation with the Association, approve for the purpose.

(As amended by Act No. 21 of 1981)

14. Every person admitted as a practitioner under the provisions of section thirteen shall pay to the Association the sum of four hundred fee units.

(As amended by Act No. 13 of 1994) Admission fee

15. The Registrar upon production of-

(a) a certificate of admission signed by the Chief Justice pursuant to subsection (3) of section thirteen; and

(b) a receipt from the Association acknowledging the payment of the fee prescribed by section fourteen;

shall enter upon the Roll the name of the person admitted. Entry of name on Roll

16. Upon the appointment of any person to the office of the Attorney-General, the rank and dignity of a State Counsel for Zambia may be conferred upon him by the President. Attorney-General to be appointed State Counsel for Zambia

17. (1) Any practitioner wishing the rank and dignity of a State Counsel for Zambia to be conferred upon him shall submit his application, accompanied by the recommendation of two State Counsel, in that behalf to the Attorney-General. Power of the President to appoint a State Counsel for Zambia and procedure for appointment

(2) On receiving such an application, the Attorney-General shall, after consultation with the Chief Justice, make such recommendation thereon to the President as he thinks fit, and the President may, after taking such recommendation into consideration, in his discretion, either reject the application or, subject to the other provisions of this Act, appoint, by Letters Patent under the Seal of the Republic, the applicant a State Counsel for Zambia.

18. (1) Subject to the provisions of subsections (2) and (3), not more than three State Counsel for Zambia shall be appointed in any one calendar year. Limitation on appointments of State Counsel for Zambia

(2) The quota for a calendar year fixed under subsection (1) may be increased up to the aggregate number by which the number of State Counsel for Zambia appointed in any preceding year or years falls short of the number arrived at by counting three for each year from the 31st March, 1972.

(3) The appointment of a State Counsel for Zambia by virtue of his appointment to the office of Attorney-General shall not be considered as an appointment for the purpose of subsection (1) or (2).

(4) Subject to the provisions of this section, appointments of State Counsel for Zambia may be made at one time or partly at one time and partly at another time or times during a calendar year.

Qualification for appointment as a State Counsel for Zambia

19. (1) Subject to subsection (2), a person shall not be appointed as a State Counsel for Zambia unless he is qualified for appointment as a puisne Judge of the High Court.

(2) The provisions of subsection (1) shall not apply to an appointment of the Attorney-General as a State Counsel.

20. Practitioners shall take precedence in the following order:

(a) the Attorney-General;

(b) the practitioners who had filled the office of Attorney-General, in the order of the dates of their appointment as Attorney-General;

(c) the Solicitor-General of Zambia;

(d) the practitioners who had filled the office of Solicitor-General of Zambia, in the order of the dates of their appointment as Solicitor-General of Zambia;

(e) all State Counsel for Zambia, in the order of the dates on which the dignity of State Counsel for Zambia was conferred upon them; and

(f) all other practitioners according to the order of entry of their respective names on the Roll. Precedence of practitioners

21. (Spent)

PART IV

REMOVAL FROM AND RESTORATION TO THE ROLL

22. (1) Any application-Removal from Roll and procedure of Disciplinary Committee

(a) by a practitioner to procure his name to be removed from the Roll; or

(b) by any person to strike the name of a practitioner off the Roll, or to require a practitioner to answer allegations made in an affidavit;

shall be made to and heard by the Disciplinary Committee in accordance with the rules made under the provisions of section twenty-three:

Provided that where, in the opinion of the Disciplinary Committee, an application under paragraph (b) does not disclose any prima facie case, the Disciplinary Committee may refuse such application without requiring the

practitioner to whom the application relates to answer the allegations and without hearing the applicant.

(2) On the hearing of an application under paragraph (a) of subsection (1), the Disciplinary Committee may recommend to the Chief Justice that the name of such practitioner be removed from the Roll, and, upon such recommendation, the Chief Justice may order that the name be removed or make such other order in relation to the case as he may think fit.

(3) On the hearing of an application under paragraph (b) of subsection (1)-

(a) the Disciplinary Committee shall give the practitioner whose conduct is the subject-matter of the application an opportunity to appear before it, and shall furnish him with a copy of any affidavit made in support of the application, and shall give him an opportunity of inspecting any other relevant document not less than seven days before the date fixed for the hearing;

(b) the Disciplinary Committee, on the termination of the hearing, shall embody its findings in the form of a report to the Court which shall be signed and filed with the Registrar, and shall be open to inspection by the practitioner to whom the application relates and his counsel, if any, and also by the applicant, but shall not be open to public inspection;

(c) (i) if the Disciplinary Committee, at the close of the hearing of the application, is satisfied that a case for the application or a case of any other misconduct on the part of the practitioner to whom the application relates has been made out it shall, unless it considers that the case may properly be dealt with under the provisions of sub-paragraph (ii), lay a signed copy of the report before the Court together with the evidence taken and the documents put in evidence at the hearing and serve copies thereof on the practitioner;

(ii) if the Disciplinary Committee, at the close of the hearing, is satisfied that a case of misconduct has been made out on the part of the practitioner to whom the application relates and that such misconduct may adequately be dealt with by the Disciplinary Committee, it may admonish such practitioner or may admonish and impose a penalty not exceeding two thousand penalty units upon such practitioner, which penalty may be recovered by the Republic as a civil debt;

(d) the Disciplinary Committee shall have power to make any such order as to payment by any party of any costs or witnesses' expenses as it may think fit, and such costs shall be recoverable as a civil debt.

(4) The practitioner to whom the application relates may, within thirty days of the notification to him of the decision, appeal to the Court against any decision of the Disciplinary Committee under sub-paragraph (ii) of paragraph (c) of subsection (3).

(As amended by Act No. 13 of 1994)

23. (1) The Disciplinary Committee, with the concurrence of the Chief Justice, may from time to time make rules, by statutory instrument, for regulating the making, hearing and determining of applications to such Disciplinary Committee under this Part. Rules governing Disciplinary Committee

(2) For the purposes of any application made to it under this Part, the Disciplinary Committee may administer oaths and the applicant and the

practitioner to whom the application relates or the Disciplinary Committee may apply to the Court for the issue of a summons to give evidence or to produce documents, but no person shall be compelled under any such summons to produce any document which he could not be compelled to produce on the trial of an action.

(3) The hearing of an application under section twenty-two shall, for the purposes of Chapter XI of the Penal Code, be deemed to be a judicial proceeding. Cap. 87

24. (1) The powers conferred upon the Court by sections twenty-two, twenty-five, twenty-seven and twenty-eight shall be exercised by not less than two of the Judges of the Court. Powers of Court under sections 22, 25, 27 and 28 to be exercised by two Judges

(2) If such powers are exercised by two Judges and the Court is equally divided, the matter shall be reheard by three Judges.

(3) If such powers are exercised by three Judges and they do not agree in their opinion, the decision of the majority shall be taken to be the decision of the Court.

25. (1) Where a report is laid before the Court under the provisions of paragraph (c) of subsection (3) of section twenty-two, the Court may set down such report for consideration. Consideration of report by Court

(2) Not less than fourteen days' notice of the date for such consideration shall be given by the Registrar to the Disciplinary Committee and to the practitioner to whom the application relates.

(3) The notice mentioned in subsection (2) shall be in such form as may be prescribed and shall be accompanied by a copy of the report as laid before the Court.

26. Both the Disciplinary Committee and the practitioner to whom the application relates may be legally represented before the Court. Representation by counsel

27. The Court may, upon the consideration of any report, refer it back to the Disciplinary Committee for the elucidation of any particular point. Reference of report back to Disciplinary Committee

28. (1) The Court, after considering the evidence taken by the Disciplinary Committee and the report and having heard counsel, if any, for such committee and the practitioner to whom the application relates or his counsel, and after taking any further evidence, if it thinks fit to do so, may admonish the practitioner to whom the application relates or may make any such order as to removing or striking his name from the Roll, as to suspending him from practice, as to payment by him of a fine not exceeding ten thousand penalty units, as to the payment of costs, and as to restitution or otherwise in relation to the case, as it may think fit, or may exonerate the practitioner. Power of Court to deal with practitioner

(2) Where the Court imposes a fine under the provisions of subsection (1), it may order the whole or any part of such fine recovered to be applied in the payment to any person of compensation for any loss or injury caused by the matters to which the application relates.

(As amended by Act No. 13 of 1994)

29. Nothing in this Act contained shall supersede, lessen or interfere with the powers vested in the Chief Justice or any of the Judges of the Court to deal with misconduct or offences by practitioners. Disciplinary powers of Court or Judge apart from inquiry by Disciplinary Committee

30. Where an order has been made by the Court upon an application to remove from, or strike off, the Roll the name of a practitioner, or to require a practitioner to answer allegations contained in an affidavit, and has not been drawn up by the applicant within one week after it was made, the Registrar may cause the order to be drawn up, and all future proceedings thereon shall be taken as if the application had been made by the Registrar. Power of Registrar to draw up orders

31. Where, in proceedings under or by virtue of this Act, any practitioner is admonished, or an order is made as to removing or striking his name from the Roll, as to suspending him from practice, or as to payment by him of a fine or costs, the Registrar shall cause a note of the effect of such admonition or order to be entered against the name of the practitioner on the Roll, and, where the order so directs, shall remove, or strike off, the name. Orders of Court to be noted on Roll

32. Subject as hereinafter provided, no practitioner shall be liable to have his name struck off the Roll on account of any defect in his admission and enrolment, unless the application so to strike his name off the Roll is made within twelve months after the date of his enrolment: Limitation of time for certain applications to strike names off Roll

Provided that this section shall not apply to any case where fraud is proved to have been committed in connection with the admission or enrolment.

33. The Chief Justice may, if he thinks fit, either on his own initiative or on the recommendation of the Disciplinary Committee, at any time order the Registrar to replace on the Roll the name of a practitioner whose name has been removed from or struck off the Roll. Restoration to Roll

34. (1) Where- Disciplinary powers as to clerks

(a) a person who is or was a clerk to a practitioner, but is not himself a practitioner, has been convicted of larceny, embezzlement, fraudulent conversion or any other criminal offence in respect of any money or property belonging to or held or controlled by the practitioner by whom he is or was employed or any clerk of such practitioner; or

(b) it appears to the Association-

(i) in the course of or as a result of any proceedings before the Disciplinary Committee under this Act; or

(ii) in the exercise of its powers under rules made under this Act;

that a person who is or was a clerk to a practitioner, but is not himself a practitioner, has been a party to any act or default of such practitioner, in respect of which an application or complaint has been or might be made against

such a practitioner to the Disciplinary Committee;

an application may be made by or on behalf of the Association to the Disciplinary Committee that an order be made directing that, as from a date to be specified in such order, no practitioner shall, in connection with his practice as such, take or retain the said person into or in his employment or remunerate the said person without the written permission of the Association, which may be given for such period and subject to such conditions as the Association may think fit.

(2) An application under this section shall be made to and be heard by the Disciplinary Committee in accordance with rules made under this section, and, on the hearing of any such application, the Disciplinary Committee shall have power to make such order as is referred to in this section and an order as to payment by any party of costs.

(3) Every order made by the Disciplinary Committee under this section shall be prefaced by a statement of its findings in relation to the facts of the case and shall be signed by the chairman of the said committee, or by a member of the said committee authorised by the said committee to sign the same, and any document purporting to be an order so signed shall be received in evidence in any criminal proceedings or in any proceedings under this Act and shall be deemed to be such an order without further proof unless the contrary is shown.

(4) Every order made by the Disciplinary Committee under this section shall be filed with the secretary to the said committee, and the file kept by him for that purpose may be inspected by any practitioner during office hours without payment, but shall not be open to the inspection of any person other than a practitioner.

(5) For the purposes of any application made to it under this section, the Disciplinary Committee may administer oaths, and the applicant and any person with respect to whom the application is made may take out a summons requiring any person to give evidence or to produce documents, but no person shall be compelled under any such summons to produce any document which he could not be compelled to produce on the trial of an action.

(6) The Disciplinary Committee, with the concurrence of the Chief Justice, may from time to time make rules, by statutory instrument, for regulating the making, hearing and determining of applications under this section, including rules as to who shall be parties to any such application, as to the service of any notice or order upon any party, and as to whether any such application shall be heard prior to, in the course of, concurrently with or subsequent to the hearing of any application against a practitioner under section twenty-two.

(7) Any person with respect to whom an order has been made by the Disciplinary Committee under this section may, within two months of such order, appeal therefrom to the Court, whose decision shall be final.

(8) Any person who, whilst there is in force in respect of him an order under this section, seeks or accepts employment by or remuneration from a practitioner in connection with his practice as such without previously informing him of such order, shall be guilty of an offence and shall be liable to a fine not exceeding two thousand penalty units.

(9) Proceedings under subsection (8) may be commenced at any time before the expiration of six months after the first discovery of the offence by the

prosecutor, but no such proceedings shall be commenced by any person, other than the Association or a person acting on behalf of the Association, except with the consent of the Attorney-General.

(10) If any practitioner knowingly acts in contravention of the provisions of an order of the Disciplinary Committee under this section as made and not appealed against or as confirmed upon appeal, as the case may be, or in contravention of any condition subject to which any such permission as aforesaid has been given by the Association, a complaint in respect of that contravention may be made by or on behalf of the Association to the Disciplinary Committee, and any such complaint shall be dealt with in the same manner as an application under paragraph (b) of subsection (1) of section twenty-two.

(As amended by Act No. 13 of 1994)

PART V

PRACTISING CERTIFICATES

35. It shall be the duty of the Association to issue, in accordance with the provisions of this Part, certificates in the prescribed form authorising the practitioners named therein to practise as advocates. Association to issue practising certificates

36. (1) (a) Every practitioner applying for a practising certificate shall-Application for practising certificates

(i) obtain from the Association a certificate showing that he is a member in good standing of the Association;

(ii) deliver to the Association a written declaration in the prescribed form stating the name and place of business of the applicant and the date of his admission and signed by the applicant; and

(iii) at the same time produce to the Association a duly signed duplicate of the declaration:

Provided that the Association may, at its discretion in any particular case, on the ground of illness or absence abroad of the applicant or on any other ground deemed by the Association sufficient, either unconditionally or subject to such conditions as it may think fit, dispense with the necessity for signature of the declaration by the applicant personally and accept a declaration in a form to the like effect which has been duly completed and has been signed by a partner of the applicant or by some other competent person approved by the Association.

(b) If in a declaration under this subsection any person makes any false statement, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

(2) The Association shall cause all the particulars contained in the declaration to be entered in a register kept for that purpose, and any person may inspect such register during office hours without payment.

(3) Application for a practising certificate shall be made in person to the Association either by the applicant or his agent and, subject to the provisions of section thirty-seven and to the payment of the contribution to the

Compensation Fund required by the provisions of section forty and the fee required by this section, if the Association is satisfied that the name of the applicant is on the Roll and that he is not for the time being suspended from practice and that the provisions of subsection (1) have been complied with, it shall thereupon deliver a practising certificate in such form as may be prescribed.

(4) If in any case, not being a case to which the next succeeding section applies, the Association, on application duly made to it, refuses or neglects to issue a practising certificate, the applicant may apply to the Court or any Judge thereof who may make such order in the matter, including an order for payment of costs by or to either the Association or the applicant, as shall be just.

(5) There shall be paid to the Association in respect of each practising certificate issued by it the prescribed fee or, where no fee has been prescribed for the purpose of this subsection, a fee not less than seventy five fee units:

Provided that the fee payable by a practitioner whose main office is more than thirty-two kilometres from the line of rail shall be one-half of the above fee.

(As amended by Acts No. 21 of 1981 and No. 13 of 1994)

37. (1) In any of the following cases, that is to say, where a practitioner applies for a practising certificate: Discretion of Association to refuse certificate in special cases

(a) when for twelve months or more he has ceased to hold a current practising certificate; or

(b) whilst he is an undischarged bankrupt or a receiving order in bankruptcy is in force against him; or

(c) when, having been suspended from practice or having had his name struck off the Roll, the period of his suspension has expired, or his name has been restored to the Roll, as the case may be; or

(d) not having held a practising certificate within the twelve months next following the date of his admission to the Roll; or

(e) whilst he is a person in respect of whom an adjudication order under the Mental Disorders Act is in force; or Cap. 305

(f) without having paid a penalty or costs ordered by the Disciplinary Committee under this Act to be paid by him; or

(g) after he has been invited by the Council to give an explanation in respect of any matter affecting his conduct and has failed to give to the Council an explanation in respect of that matter which the Council regard as sufficient and satisfactory, and has been notified in writing by the Council that he has so failed; or

(h) after having had an order made against him for the issue of a writ of attachment; or

(i) after having been adjudicated a bankrupt and obtained his discharge or

after having entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors; or

(j) after having had given against him any judgment which involves the payment of moneys, other than costs, and is not a judgment as to the whole effect of which upon him he is entitled to indemnity or relief from any other person and without having produced to the Association evidence of the satisfaction of such judgment;

he must, unless the Association or the Chief Justice otherwise orders, give to the Association, at least six weeks before the application is made, notice of his intention to make the application, and the Association may in its discretion grant or refuse the application, or decide to issue a certificate to the applicant, subject to such terms and conditions as the Association may in its discretion think fit and in the last-mentioned case may, if it thinks fit, postpone the issue of the certificate pending the hearing and determination of an appeal under this section:

Provided that-

(i) in the event of an appeal having been made to the appropriate court in case (b) against the receiving order or in case (h) against the order for the issue of a writ of attachment or in case (j) against the judgment, the Association shall not refuse the application during the pendency of such appeal unless in its opinion the proceedings on such appeal have been unduly protracted by the appellant or are unlikely to be successful; and

(ii) where, having regard to certain facts, a discretion becomes exercisable by the Association in any of the cases (a), (c), (d), (g), (h), (i) and (j), as soon thereafter as a practising certificate has been issued in the exercise of such discretion to the applicant free of conditions, those facts shall cease to operate so as to require such applicant to give the notice mentioned in this section or to vest any discretion in the Association.

(2) Within one month after being notified of the decision of the Association, the applicant may appeal against such decision to the Chief Justice who may affirm the decision of the Association or may direct it to issue a certificate to the applicant on such terms and conditions as the Chief Justice may think fit or free from terms and conditions or not to issue a certificate or, if a certificate has been issued, may by order suspend such certificate until such certificate expires or the suspension is terminated by order of the Association or the Chief Justice or may make such other order as he may think fit.

38. (1) Every practising certificate shall, subject as hereinafter provided, take effect on the day on which it is issued by the Association: Date and period of validity of practising certificate

Provided that every practising certificate issued between the 1st January and the 1st February in any year shall have effect for all purposes from the 1st January in that year.

(2) Every certificate shall continue in force from the day from or on which it has taken or takes effect in accordance with this section until the 31st December next following (both days inclusive) and shall then expire.

(3) It shall be the duty of the Association to enter upon the register kept under the provisions of subsection (2) of section thirty-six a note of the date

of issue to any practitioner of a practising certificate.

39. (1) Any list purporting to be published by authority of the Association and to contain the names of practitioners who have obtained practising certificates for the current year before the 1st February in that year shall, until the contrary is proved, be evidence that the persons named therein as practitioners holding such certificates as aforesaid for the current year are practitioners holding such certificates. List published by Association to be prima facie evidence of practitioner holding certificate

(2) The absence from such list of the name of any person shall, until the contrary is proved, be evidence that the person is not qualified to practise as a practitioner under a certificate for the current year, but in the case of any such person an extract from the register kept under the provisions of subsection (2) of section thirty-six certified as correct by the Association shall be evidence of the facts appearing in the extract.

PART VI

COMPENSATION FUND

40. (1) A fund to be called "the Compensation Fund" shall be established, maintained and administered by the Association for enabling the Association to make grants thereout in any cases which the Council think suitable for such treatment and in their absolute discretion decide so to treat, for the purpose of relieving or mitigating losses sustained by any person in consequence of dishonesty on the part of any practitioner or any clerk or servant of any practitioner in connection with any such practitioner's practice as a practitioner, or any trust of which such practitioner was a trustee, and whether or not he had a practising certificate in force when the act of dishonesty was committed and notwithstanding that subsequent to the commission of that act he may have died or had his name removed from or struck off the Roll or may have ceased to practise or been suspended from practice: Compensation Fund

Provided that-

(i) no grant shall be made under this section in respect of loss due to any act of dishonesty where such loss first came to the knowledge of the loser before the 18th April 1957.***coming into operation of section thirty-seven of the Legal Practitioners Act, Chapter 144 of the 1965 Edition of the Laws; and

* 18th April 1957.

(ii) no grant shall be made under this section in respect of any loss, unless notice of such loss is received by the Association in such manner and within such time after the same first came to the knowledge of the loser as is prescribed by rules made under this section, and it is proved to the satisfaction of the Council that such loss is one in respect of which a grant may properly be made under this section.

(2) The Compensation Fund shall be held by the Association in trust for the purposes provided for in this section and the Second Schedule and any rules made under this section.

(3) Subject as hereinafter provided, on the issue of a practising certificate to a practitioner, there shall be paid by such practitioner to the Association and paid by the Association into the Compensation Fund a contribution of such

sum as may be prescribed or if no sum is prescribed, of not less than one hundred and twenty-five fee units (which contribution is in this section referred to as "the annual contribution"). The Association may withhold the issue of such certificate until the annual contribution is paid.

(4) The Association may invest in securities in which trustees are authorised by law to invest trust funds in their hands any moneys which form part of the Compensation Fund and are not immediately required for any other purpose provided for in this section and the Second Schedule and any rules made under this section.

(5) The Association may insure with any person, body of persons or corporation authorised by law to carry on insurance business within Zambia for such purposes and on such terms as the Council may deem expedient in relation to the Compensation Fund.

(6) The provisions set out in the Second Schedule shall have effect with regard to the formation, administration and application of the Compensation Fund and matters connected therewith.

* 18th April, 1957.

(7) On the making by the Association of any grant out of the Compensation Fund under the provisions of this section and the Second Schedule and any rules made under this section to any person in respect of loss sustained in consequence of any such dishonesty as is mentioned in subsection (1)-

(a) the Association shall, to the amount of such grant, be subrogated-

(i) to any rights or remedies to which such person was entitled on account of such loss against the practitioner or any other person, or, in the event of the death or insolvency or other disability of such practitioner or other person, against his personal representatives or any other persons having authority to administer his estate;

(ii) to any rights or remedies to which such practitioner, his clerk or servant, was entitled on account of such loss against any other person, or, in the event of the death or insolvency or other disability of such other person, against his personal representatives or any other persons having authority to administer his estate; and

(iii) to all other rights and remedies (if any) of the person to whom the payment is made or such practitioner, his clerk or servant, in respect of such loss; and

(b) the person to whom the grant is made, or, in the event of his death or insolvency or other disability, his personal representatives or any other persons having authority to administer his estate shall have no right under bankruptcy or other legal proceedings or otherwise to receive any sum out of the assets of such practitioner or other person in respect of the loss until the Association has been reimbursed the full amount of its grant.

(8) The Council may, by statutory instrument, make rules with respect to the procedure to be followed in giving effect to the provisions of this section and the provisions of the Second Schedule, other than paragraph 5 and sub-paragraphs (2) and (5) of paragraph 4 thereof, and with respect to any matters incidental, ancillary or supplemental to those provisions or concerning the administration

or protection of the Compensation Fund.

(As amended by Act No. 21 of 1981 and Act No. 13 of 1994))

PART VII

PRIVILEGES, RESTRICTIONS AND OFFENCES IN CONNECTION WITH PRACTICE

41. (1) Subject as hereinafter provided, no person shall be qualified to act as an advocate within Zambia unless his name is on the Roll and he has in force a practising certificate. Qualifications for practising

(2) Every person whose name is on the Roll and who has in force a practising certificate or who is admitted to practice under subsection (1) shall be entitled to practise as an advocate in any court in Zambia other than a local court and shall be deemed to be an officer of the Court.

42. (1) No unqualified person shall act or practise, directly or indirectly, as an advocate or as such sue out any summons or other process, or commence, carry on or defend any action, suit or other proceeding in the name of any other person in any court of civil or criminal jurisdiction, or act as an advocate in any cause or matter, civil or criminal, or act as a Notary Public. Unqualified person not to act as an advocate

(2) If any person contravenes the provisions of this section, he shall be guilty of an offence against this Act and of contempt of the court in which the action, suit, cause, matter or proceeding in relation to which he so acts is brought or taken and may be punished accordingly, and shall be incapable of maintaining any action for any costs in respect of anything done by him in the course of so acting, and shall, in addition to any other penalty or forfeiture and any disability to which he may be subject, be liable to a fine not exceeding two thousand penalty units or a period of imprisonment not exceeding six months.

(As amended by Act No. 13 of 1994)

43. Any unqualified person who wilfully pretends to be, or takes or uses any name, title, addition or description implying that he is qualified or recognised by law as qualified to act as an advocate, or a Notary Public, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

(As amended by Act No. 13 of 1994) Penalty for pretending to be an advocate

44. Every unqualified person who, unless he proves that the act was not done for or in expectation of any fee, gain or reward-

(a) directly or indirectly draws or prepares any written document relating to real or personal estate, or to any proceeding in law or equity; or

(b) writes any letter, on behalf of any other person, demanding payment of money, or the performance of or abstention from performance of any act, and threatening legal proceedings in default of compliance; or

(c) delivers or causes to be delivered to any person any document which, not having been issued under the authority of one of the courts of Zambia, has, by reason of its form or contents, or both, the appearance of having been issued

under such authority;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand penalty units:Offences by unqualified persons

Provided that-

(i) the term "written document" used in this section shall not include-

A. an agreement under hand only, other than an agreement relating to the sale of land; or

B. a memorandum or articles of association of a limited company; or

C. a letter of attorney or power of attorney; or

D. a transfer of stock containing no trust or limitation thereof;

(ii) this section shall not extend to any public officer drawing or preparing any document in the course of his public duty.

(As amended by Act No. 13 of 1994)

45. Every person who draws or prepares any written document referred to in the last preceding section shall endorse or cause to be endorsed thereon his name and address; and any such person omitting so to do or falsely endorsing or causing to be endorsed any of the said requirements shall be liable to a fine not exceeding two hundred penalty units; and it shall not be lawful for the Registrar, the Registrar of Lands and Deeds or any other registering authority to accept or recognise any such instrument unless it purports to bear the name of the person who prepared it endorsed thereon:Instrument to be endorsed with name and address of drawer

Provided that this section shall not apply to any public officer drawing or preparing any written document in the course of his public duty.

(As amended by Act No. 13 of 1994)

46. Any unqualified person who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or indirectly, or as an agent of any person other than a practitioner, takes instructions for or draws or prepares any papers on which to found or oppose a grant of probate or of letters of administration shall, without prejudice to any liability or disability to which he may be subject under any other section of this Act, or any other Act, be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

(As amended by Act No. 13 of 1994)Penalty on unqualified person acting in preparation of papers for probate, etc.

47. No costs in respect of anything done by any unqualified person who acts as an advocate shall be recoverable in any action, suit or matter by any person whomsoever.No costs recoverable where unqualified person acts as advocate

48. (1) No practitioner shall wilfully and knowingly act as agent in any action or in any matter in bankruptcy for any unqualified person resident in

Zambia, or permit his name to be made use of in any such action, or matter upon the account, or for the profit of any unqualified person, or send any process to any unqualified person, or do any other act enabling any unqualified person to appear, act or practise in any respect as an advocate in any such action or matter. Practitioner not to act as agent for unqualified person

(2) Where it appears to the Court that a practitioner has acted in contravention of this section, the Court may, in the absence of a satisfactory explanation from such practitioner, impose any such punishment or make any such order as is mentioned in section twenty-eight.

(3) Where the Court imposes any punishment on a practitioner in respect of an offence under this section, it may further order that the unqualified person who was enabled by the conduct of the offender to act or practise as an advocate shall pay a fine or in default of payment undergo imprisonment for a term not exceeding one year.

49. (1) No practitioner shall, in connection with his practice as such a practitioner, without the written permission of the Disciplinary Committee, which may be given for such period and subject to such conditions as the Disciplinary Committee thinks fit, employ or remunerate any person who to his knowledge is disqualified from practising by reason of the fact that his name has been struck off the Roll, otherwise than at his own request, or is suspended from so practising. Employment by practitioner of persons struck off Roll or suspended

(2) A practitioner aggrieved by the refusal of the Disciplinary Committee to grant any such permission as aforesaid, or by any conditions attached by the Disciplinary Committee to the grant thereof, may appeal to the Chief Justice who may confirm the refusal or the conditions, as the case may be, or may, in lieu of the Disciplinary Committee, grant such permission for such period and subject to such conditions as he thinks fit.

(3) If any practitioner acts in contravention of the provisions of this section or of the conditions subject to which any permission has been given thereunder, his name shall be struck off the Roll or he shall be suspended from practice for such period as the Court thinks fit.

50. (1) Any person who, whilst he is disqualified from practising by reason of the fact that he has been struck off the Roll, otherwise than at his own request, or is suspended from practising, seeks or accepts employment by a practitioner in connection with the latter's practice without previously informing him that he is so disqualified as aforesaid, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand penalty units or to term of imprisonment not exceeding two years, or to both. Penalty on failure to disclose fact of having been struck off, etc.

(2) Proceedings under this section may be commenced at any time before the expiration of six months after the first discovery of the offence by the prosecutor, but no such proceedings shall be commenced except by, or with the consent of, the Attorney-General.

(As amended by Act No. 13 of 1994)

51. (1) If any act is done by a body corporate or by any director, officer or servant thereof, of such a nature or in such a manner as to be calculated to imply that the body corporate is qualified, or recognised by law as qualified,

to act as an advocate, the body corporate shall be liable to a fine not exceeding one thousand penalty units and, in the case of an act done by any director, officer or servant of the corporation, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand penalty units or to a term of imprisonment not exceeding two years, or to both. Offences by bodies corporate

(2) In this Part, wherever the context so admits, reference to unqualified persons and reference to persons include references to bodies corporate.

(As amended by Act No. 13 of 1994)

52. No practitioner shall-

(a) take instructions in any case except from the party on whose behalf he is retained or some person who is the recognised agent of such party, or some servant, relation or friend authorised by the party to give such instructions; or

(b) mislead or allow any court to be misled, so that such court makes an order which such practitioner knows to be wrong or improper; or

(c) tender, or give or consent to the retention out of any fee paid or payable to him for his services of any gratuity for procuring or having procured the employment in any legal business of himself or any other practitioner; or

(d) directly or indirectly procure or attempt to procure the employment of himself or his partner or assistant as a practitioner, through or by the intervention of any person to whom remuneration for obtaining such employment has been given by him, or agreed or promised to be so given; or

(e) advertise himself in any wise in relation to his profession or business as a practitioner, except so far as may be necessary to mark his office or to give his address to persons having business communications or dealings with him; or

(f) directly or indirectly hold himself out or permit himself to be held out, whether by name or otherwise, as being prepared to undertake professional business for any fee or consideration which shall be less than the scale of charges (if any) for the time being prescribed or approved by the Remuneration Committee; or

(g) agree with his client either before, during or after the conduct of any non-contentious professional business to undertake such business for any fee or consideration whatsoever that shall be less than that set out in the scale of charges (if any) for the time being prescribed or approved by the Remuneration Committee; or

(h) commit any breach of any of the provisions of Part VIII; or

(i) deceive or mislead any client or allow him to be deceived or misled in any respect material to such client; or

(j) commit any contempt of court; or

(k) contravene the provisions of section fifty-five Offences by practitioners

53. Any practitioner who contravenes any of the provisions of section fifty-two shall be deemed to be guilty of professional misconduct, and the Court may, in its discretion, either admonish such practitioner, or suspend him from practice, or cause his name to be struck off the Roll pursuant to section twenty-eight:Offences deemed professional misconduct

Provided that-

(i) nothing in this section or in section fifty-two contained shall supersede, lessen or interfere with the powers vested in the Court, under or by virtue of section twenty-eight or otherwise, to deal with misconduct or offences by practitioners of whatsoever nature or kind, whether mentioned in section fifty-two or otherwise;

(ii) nothing in section fifty-two shall restrict the powers of the Disciplinary Committee under section twenty-two to inquire into or deal with misconduct by practitioners of whatsoever nature or kind, whether mentioned in section fifty-two or otherwise.

54. Subject to the provisions of section forty-nine, nothing in this Act shall be deemed to prevent any practitioner from employing an unqualified person to do any work on his behalf, such as is ordinarily done by clerks or employees, subject to the following conditions:

(a) such work shall be done in the name of the practitioner, and all fees or other reward to be paid or received in respect of such work shall be paid to and received directly by the practitioner;

(b) on all occasions when the unqualified person signs any written document or letter in the name of any practitioner by whom he is employed, he shall, in addition, sign his own name after the name of the practitioner;

(c) the practitioner shall send to the Court and to the magistrate of the District wherein he practises the names of all unqualified persons who are authorised to do any such work on his behalf as is mentioned in this section. Saving as to employment of unqualified persons by qualified persons

55. No practitioner shall at any one time employ in his office in the capacity of an advocate more than two qualified persons who are not practitioners:Restriction upon right to employ qualified persons who are not practitioners

Provided that a firm of practitioners, of which not less than two of the principals are practitioners of not less than five years' standing, may so employ not more than four qualified persons who are not practitioners.

PART VIII

KEEPING OF ACCOUNTS BY PRACTITIONERS

56. In this Part, unless the context otherwise requires-Interpretation

"client" means any person or body of persons, corporate or unincorporate, on whose behalf a practitioner in connection with his practice receives money;

"practitioner" includes a practitioner acting as an agent, bailee, stakeholder, or in any capacity in connection with his practice.

57. Every practitioner shall keep such books and accounts as may be necessary to show and distinguish in connection with his practice-

(a) the moneys received from or on account of and the moneys paid to or on account of each of his clients; and

(b) the moneys received and the moneys paid on his own account. Practitioner's accounts

58. Every practitioner who holds or receives money on account of a client (save money hereinafter expressly exempted from the application of this section), shall without undue delay pay such money into a current or deposit account at a bank or into a deposit account at a building society, to be kept in the name of the practitioner in the title of which the word "client" shall appear (hereinafter referred to as "a client account"). Any practitioner may keep one client account or as many such accounts as he thinks fit: Client's money to be paid into bank or building society

Provided that, when a practitioner receives a cheque or draft representing in part money belonging to the client and in part money due to the practitioner, he may, where practicable, divide the amount of the cheque or draft and pay to the client account that part only which represents money belonging to the client. In any other case he shall pay the whole of such cheque or draft into the client account.

59. No money shall be paid into a client account other than-

(a) money held or received on account of a client;

(b) such money belonging to the practitioner as may be necessary for the purpose of opening or maintaining the account;

(c) money for replacement of any sum which may by mistake or accident have been drawn from the account in contravention of section sixty;

(d) a cheque or draft received by the practitioner representing in part money belonging to the client and in part money due to the practitioner where such cheque or draft has not been divided as provided for in section fifty-eight. What money to be paid into client account

60. No money shall be drawn from a client account other than-

(a) money properly required for payment to or on behalf of a client or for or towards payment of a debt due to the practitioner from a client or money drawn on the client's authority, or money in respect of which there is a liability of the client to the practitioner provided that the money so drawn shall not in any case exceed the total of the money so held for the time being for such client;

(b) such money belonging to the practitioner as may have been paid into the account under paragraph (b) or (d) of section fifty-nine;

(c) money which may by mistake or accident have been paid into such account in contravention of section fifty-nine. Withdrawing of money from client account

61. Sections fifty-eight, fifty-nine and sixty shall not apply to money which-

- (a) the client, for his own convenience, requests a practitioner to withhold from a client account;
- (b) a practitioner pays into a separate account or an account to be opened in the name of a client or some person named by that client or the duly authorised agent of that client;
- (c) in the ordinary course of business upon receipt is paid on behalf of the client to a third party;
- (d) is upon receipt paid to the client;
- (e) is paid to a practitioner expressly on account of costs;
- (f) the Disciplinary Committee upon an application made to it in writing by a practitioner specifically authorises to be withheld or withdrawn from a client account. What money need not be paid into client account

62. (1) If a practitioner fails to comply with any of the provisions of the preceding sections of this Part, any person aggrieved thereby may make a complaint in writing in respect of that failure to the Disciplinary Committee. Complaint in respect of practitioner's failure to comply with provisions

(2) In order to consider, pursuant to section twenty-two, whether the provisions of this Part have been complied with, the Disciplinary Committee, acting either on its own motion or on the written complaint lodged with it as provided for in subsection (1), may require any practitioner to produce, at some convenient time and place, his books of account, bank pass books, statements of account, vouchers and any other necessary documents for the inspection of any person appointed by the Disciplinary Committee, and any such person shall prepare for the information of the Disciplinary Committee a report on the result of such inspection. Such report may be used as a basis for any report by the Disciplinary Committee pursuant to subsection (3) of section twenty-two.

(3) Before making any such appointment, the Disciplinary Committee shall consider any objection made by any such practitioner to the appointment of a particular person on personal or other proper grounds.

63. Before instituting an inspection on a complaint made by a third person, the Disciplinary Committee shall require prima facie evidence that a ground of complaint exists, and may require the payment by such person to the Disciplinary Committee of a reasonable sum to be fixed by it to cover the costs of inspection and the costs of the practitioner against whom the complaint is made. The Disciplinary Committee may deal with any sum so paid in such manner as it thinks fit. Evidence and deposit of costs before instituting inspection of accounts

64. Every requirement, authorisation and notification to be made or given by the Disciplinary Committee to a practitioner under this Part shall be made in writing under the hand of such person as may be appointed by the Disciplinary Committee for the purpose and left at or sent by registered post to the last address of the practitioner appearing in the Roll and, when so made and sent, shall be deemed to have been received by the practitioner within forty-eight hours of the time of posting. Notice to practitioner: how made

65. In addition to the powers conferred by section twenty-eight, the Court

shall have the power to impose on a practitioner a fine not exceeding ten thousand penalty units in respect of any breach of the provisions of this Part.

(As amended by Act No. 13 of 1994)Penalty for breach of Part VIII

66. Nothing in this Part shall deprive a practitioner of any recourse or right, whether by way of lien, set-off, counter-claim, charge or otherwise, against moneys standing to the credit of a client account.Saving

67. (1) Subject to the provisions of this section, no bank shall, in connection with any transaction on any account of any practitioner kept with it or with any other bank (other than an account kept by a practitioner as trustee for a specified beneficiary), incur any liability or be under any obligation to make an inquiry or be deemed to have any knowledge of any right of any person to any money paid or credited to any such account which it would not incur or be under or be deemed to have in the case of an account kept by a person entitled absolutely to all the money paid or credited to it:Relief to banks

Provided that nothing in this subsection contained shall relieve a bank from any liability or obligation to which it would be subject apart from this Act.

(2) Notwithstanding anything in subsection (1) contained, a bank at which a practitioner keeps an account for clients' moneys shall not, in respect of any liability of the practitioner to the bank, not being a liability in connection with the account, have or obtain any recourse or right, whether by way of set-off, counter-claim, charge or otherwise, against moneys standing to the credit of that account:

Provided that nothing in this subsection contained shall deprive a bank of any right existing at the commencement of this Act.

68. (1) In order to ascertain whether the provisions of this Part have been complied with, the Association, acting either on its own motion or on written complaint lodged with it, may require any practitioner to produce at a time and place fixed by the Association and place his books of account, bank pass books, statements of account, vouchers and any other necessary documents for the inspection of any person appointed by the Association.Association may require production of practioner's books

(2) Before making any such appointment, the Association shall consider any objection made by any such practitioner to the appointment of a particular person on personal or other proper grounds.

(3) Where a complaint is received by the Association that a practitioner has not complied with the provisions of this Part or that a practitioner or a clerk or servant of a practitioner has been guilty of dishonesty in connection with that practitioner's practice as a practitioner or in connection with any trust of which that practitioner is a trustee, then, without prejudice to the other provisions of this Act, the Association shall appoint a person publicly carrying on the profession of accountant in Zambia to be the accountant, to inquire into and report on the allegations made in such complaint, and the accountant shall have the power-

(a) to require the practitioner to produce, at a time and place fixed by the accountant, books of account, bank pass-books, statements of account, vouchers and any other necessary documents for inspection;

(b) to require the practitioner or any clerk or servant of the practitioner to explain in writing any matter arising out of the books and documents produced or not produced before the accountant, including any entries or absence of entries in the books and documents produced.

(4) On completion of the inquiry the accountant shall submit to the Association a report together with the explanations, if any, received by him, and the Association, unless it is satisfied that no prima facie case has been disclosed against the practitioner, shall make an application to the Disciplinary Committee under section twenty-two, to strike the name of the practitioner off the Roll or to require the practitioner to answer allegations made in an affidavit, and shall submit the report and the explanations, if any, along with the application.

(5) The report of the accountant shall be admissible in and treated as evidence in the proceedings before the Disciplinary Committee against the legal practitioner.

(6) If at any stage of the inquiry the accountant has reasonable cause to believe that a practitioner or a clerk or servant of a practitioner has been guilty of dishonesty in connection with the practitioner's practice as practitioner or in connection with any trust of which that practitioner is a trustee, the accountant shall forthwith inform the Association in writing and on the receipt of such information by the Association the provisions of the Third Schedule shall apply in relation to the practitioner, as they apply where the Association has reasonable cause to believe that a practitioner has been guilty of such dishonesty as aforesaid.

69. (1) If the Association has reasonable cause to believe that a practitioner, or a clerk or servant of a practitioner, has been guilty of dishonesty in connection with that practitioner's practice as a practitioner or in connection with any trust of which that practitioner is a trustee, the provisions of the Third Schedule, except paragraph 7 thereof, and, if the Association is satisfied that the practitioner, clerk or servant has been guilty as aforesaid, the said paragraph 7, shall apply in relation to that practitioner. Power of Association to deal with property of certain practitioners

(2) Where the name of a practitioner is removed from or struck off the Roll or a practitioner is suspended from practice, that practitioner shall, within twenty-one days from the material date, satisfy the Association that he has made suitable arrangements for making available to his clients or to some other practitioner or practitioners instructed by his clients or by himself-

(a) all deeds, wills, documents constituting or evidencing title to any property, papers, books of account, records, vouchers and other documents in his or his firm's possession or control, or relating to any trust of which he is the sole trustee or co-trustee only with one or more of his partners, clerks or servants; and

(b) all sums of money due from him or his firm to, or held by him or his firm on behalf of, his clients or subject to any such trust as aforesaid;

and if he fails so to satisfy the Association the Third Schedule shall apply in relation to him.

(3) The provisions of subsections (4) and (5) and of the Third Schedule shall apply in relation to any practitioner who-

- (a) dies;
- (b) abandons his practice;
- (c) is adjudged bankrupt or makes a composition or arrangement with his creditors; or
- (d) is prevented, for any other reason, from performing his functions as a practitioner;

and in relation to whom the Association is satisfied that his clients are likely to suffer due to his failure to make such suitable arrangements as are referred to in subsection (2).

(4) On an application of the Association in relation to a practitioner to whom subsection (3) applies, the High Court or a Judge thereof may in addition to any other order made under the provisions of the Third Schedule, order that all sums of money held by or on behalf of such practitioner or his firm which are or are deemed to be client money in accordance with the provisions of Part VIII, or which are so held in connection with any trust of which he is or formerly was a sole trustee, and the right to recover or receive such sums, shall vest in the Association.

(5) Where any sums of money vest in the Association by virtue of the provisions of subsection (4), the Association shall-

- (a) maintain a separate account for such sums;
- (b) hold such sums on trust for the persons beneficially entitled thereto;
and
- (c) deal with such sums in accordance with any rules which may be prescribed.

(6) Where the Association refuses to issue a practising certificate to a practitioner on the ground that the practitioner has not delivered to the Association an accountant's certificate in accordance with the regulations made or continued in force under this Act, and such certificate is not delivered to the Association within three months of the date of such refusal, the Association shall proceed as if a complaint such as is referred to in subsection (3) of section sixty-eight has been received by the Association.

(7) In subsection (2) "the material date" means whichever is the latest of the following dates, that is to say:

- (a) the date when the order of the Disciplinary Committee or of the Court by or in pursuance of which the practitioner's name is removed from or struck off the Roll, or the practitioner is suspended from practice, is to take effect;
- (b) the last date on which an appeal against that order may be lodged;
- (c) the date on which any such appeal is dismissed or abandoned.

(8) In this section and in the Third Schedule "trust" and "trustee" extend to implied and constructive trusts and to cases where the trustee has a beneficial interest in the trust property and to the duties incident to the office of a personal representative, and "trustee", where the context admits, includes a

personal representative.

(As amended by Act No. 21 of 1981)

PART IX

REMUNERATION OF PRACTITIONERS

70. (1) For the purposes of this Part there shall be a committee to be known as the Remuneration Committee which shall consist of five practitioners to be nominated by the Association, of whom three shall form a quorum. Power to make general orders as to remuneration of practitioners

(2) On the recommendation of the Remuneration Committee-

(a) the Chief Justice in regard to non-contentious business; and

(b) the High Court Rules Committee established under the High Court Act in regard to contentious business;

may, by statutory instrument, make general orders prescribing and regulating in such manner as they think fit the remuneration of practitioners, and may revoke or alter any such order, or any order made before the commencement of this Act, which provides for the remuneration of practitioners. Cap. 27

71. Any order made under section seventy in respect of non-contentious business may, as regards the mode of remuneration, prescribe that it shall be according to a scale of rates of commission or percentage, varying or not in different classes of business, or by a gross sum, or by a fixed sum for each document prepared or perused, without regard to length, or in any other mode, or partly in one mode and partly in another, and may regulate the amount of remuneration with reference to all or any of the following, among other considerations, that is to say:

(a) the position of the party for whom the practitioner is concerned in the business, that is, whether as vendor or purchaser, lessor or lessee, mortgagor or mortgagee, chargor or chargee, and the like;

(b) the place where, and the circumstances in which, the business or any part thereof is transacted;

(c) the skill, labour and responsibility involved therein on the part of the practitioner;

(d) the number and importance of the documents prepared or perused, without regard to length. Scale of rates of commission and percentage

72. An order made in respect of non-contentious business may authorise and regulate-

(a) the taking by a practitioner from his client of security for payment of any remuneration, to be ascertained by taxation or otherwise, which may become due to him under any such order; and

(b) the allowance of interest. Security for payment of remuneration, and regulating interest

73. As long as any order made as aforesaid is in operation, the taxation of bills of costs of practitioners shall, subject to the provisions of the next succeeding section with respect to agreements as to remuneration, be regulated by that order. Taxation of bills of costs

74. (1) Whether or not any order is in force under the last preceding section, a practitioner and his client may, either before or after or in the course of the transaction of any non-contentious business by the practitioner, make an agreement as to the remuneration of the practitioner in respect thereof. Agreements with respect to remuneration for non-contentious business

(2) The agreement may provide for the remuneration of the practitioner by a gross sum, or by commission or percentage, or by salary, or otherwise, and it may be made on the terms that the amount of the remuneration therein stipulated for either shall or shall not include all or any disbursement made by the practitioner in respect of searches, plans, travelling, stamps, fees or other matters.

(3) The agreement shall be in writing and signed by the person to be bound thereby or his agent in that behalf.

(4) The agreement may be sued and recovered on or set aside in the like manner and on the like grounds as an agreement not relating to the remuneration of a practitioner:

Provided that if on any taxation of costs the agreement is relied on by the practitioner and objected to by the client as unfair or unreasonable, the taxing officer may inquire into the facts and certify them to the Court and if on that certificate it appears just to the Court that the agreement should be cancelled, or the amount payable thereunder reduced, the Court may order the agreement to be cancelled, or the amount payable thereunder to be reduced, and may give such consequential directions as it thinks fit.

(5) This section shall be read subject to the provisions of section fifty-two.

75. (1) If a mortgage is made to a practitioner, either alone or jointly with any other person, he, or the firm of which he is a member, shall be entitled to recover from the mortgagor in respect of all business transacted and acts done by him or them in negotiating the loan, deducing and investigating the title to the property, and preparing and completing the mortgage, such usual costs as he or they would have been entitled to receive if the mortgage had been made to a person who was not a practitioner and that person had retained and employed him or them to transact the said business and do the said acts. Remuneration of practitioner who is a mortgagee

(2) If, whether before or after the commencement of this Act, a mortgage has been made to, or has become vested by transfer or transmission in a practitioner, either alone or jointly with any other person, and if after the commencement of this Act any business is transacted or acts are done by that practitioner, or by the firm of which he is a member, in relation to that mortgage, or the security thereby created or the property comprised thereunder, then he or they shall be entitled to recover from the person on whose behalf the business was transacted or the acts were done, and to charge against the security, such usual costs as he or they would have been entitled to receive if the mortgage had been made to and had remained vested in a person who was not a practitioner and that person had retained and employed him or them to transact the said business and do the said acts.

(3) In this section "mortgage" includes any charge on any property for securing money or money's worth.

76. Notwithstanding anything to the contrary in section seventy, a practitioner may make an agreement in writing with his client as to his remuneration in respect of any contentious business done or to be done by him, providing that he shall be remunerated either by a gross sum, or by salary, or otherwise. Power to make agreements as to remuneration for contentious business

77. (1) Any agreement mentioned in section seventy-six-Miscellaneous provisions as to agreements with respect to costs of contentious business

(a) shall not affect the amount of, or any rights or remedies for the recovery of, any costs payable by the client to, or to the client by, any person other than the practitioner and that person may, unless he has otherwise agreed, require any such costs to be taxed according to the rules for the time being in force for the taxation thereof:

Provided that the client shall not be entitled to recover from any other person under any order for the payment of any costs to which the agreement relates more than the amount payable by him to his practitioner in respect thereof under the agreement;

(b) shall be deemed to exclude any claim by the practitioner in respect of the business to which it relates other than-

(i) a claim for the agreed costs; or

(ii) a claim for such costs as are expressly excepted therefrom.

(2) A provision in such an agreement that the practitioner shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as a practitioner, shall be void.

(3) No action shall be brought upon any such agreement, but the Court, after hearing the Remuneration Committee if it wishes to be heard, may, on the application of any person who is a party to, or the representative of a party to, the agreement, or who is, or who is alleged to be, liable to pay, or who is or claims to be entitled to be paid, the costs due or alleged to be due in respect of the business to which the agreement relates, enforce or set aside the agreement and determine every question as to the validity or effect thereof.

(4) On any such application, the Court-

(a) if it is of opinion that the agreement is in all respects fair and reasonable, may enforce it;

(b) if it is of opinion that the agreement is in any respect unfair or unreasonable, may declare it void and may order it to be given up to be cancelled and may order the costs covered thereby to be taxed as if the agreement had never been made;

(c) in any case, may make such orders as to the costs of the application as it thinks fit.

78. (1) If the business covered by any such agreement is business done, or to be done, in any action, the amount payable under the agreement shall not be received by the practitioner until the agreement has been examined and allowed by a taxing officer of the Court, and if the taxing officer is of opinion that the agreement is unfair or unreasonable, he may require the opinion of the Remuneration Committee to be taken thereon and may, on receipt of such opinion, reduce the amount payable thereunder, or order the agreement to be cancelled and the costs recovered thereby to be taxed as if the agreement had never been made. In certain circumstances taxing officer may reduce amount payable under agreement

(2) When the amount agreed for under any such agreement has been paid by or on behalf of the client or by any person entitled so to do, the person making the payment may, at any time within twelve months after payment, apply to the Court and the Court, if it appears to it that the special circumstances of the case require the agreement to be reopened, may, on such terms as may be just, reopen the agreement and may order the costs covered thereby to be taxed and the whole or any part of the amount received by the practitioner to be repaid by him.

(3) Where any such agreement is made by the client as the guardian or committee of, or as a trustee under a deed or will for, any person whose property will be chargeable with the whole or any part of the amount payable under the agreement, the agreement shall, before payment, be laid before the taxing officer of the Court, and that officer shall examine the agreement and may disallow any part thereof, or may require the opinion of the Court to be taken thereon.

(4) Any such client as is mentioned in subsection (3) who pays the whole or any part of the amount payable under the agreement without the agreement having been allowed by the officer or by the Court, shall be liable at any time to account to the person whose property is charged with the whole or any part of the amount so paid for the sum so charged, and the practitioner who accepts the payment may be ordered by the Court to refund the amount received by him.

79. (1) If, after some business has been done under an agreement made in pursuance of the provisions of section seventy-six but before the practitioner has wholly performed it, the practitioner dies or becomes incapable of acting, then any party to, or the representative of any party to, the agreement, may apply to the Court and the Court shall have the same jurisdiction as to enforcing the agreement so far as it has been performed, or setting it aside, as it would have had if the practitioner had not died or become incapable of acting: Death, incapability or change of practitioner, etc.

Provided that the Court may, notwithstanding that it is of opinion that the agreement is in all respects fair and reasonable, order the amount due in respect of the business done there-under to be ascertained by taxation, and in that case-

(a) the taxing officer, in ascertaining that amount, shall have regard so far as may be to the terms of the agreement; and

(b) payment of the amount found by him to be due may be enforced in the same manner as if the agreement had been completely performed.

(2) The provisions of subsection (1) shall apply in the event of the client changing his practitioner (as, notwithstanding the agreement, he shall be entitled to do) before the conclusion of the business to which the agreement relates in the same manner as they apply when the practitioner dies or is

incapacitated, with this modification, that if an order is made for the taxation of the amount due to the practitioner in respect of the business done under the agreement, the Court shall direct the taxing officer to have regard to the circumstances under which the change of practitioner has taken place, and the taxing officer, unless he is of opinion that there has been no default, negligence, improper delay or other conduct on the part of the practitioner affording to the client reasonable ground for changing his practitioner, shall not allow to the practitioner the full amount of the remuneration agreed to be paid to him.

80. Subject to the provisions of sections seventy-eight and seventy-nine, the costs of a practitioner in any case where an agreement has been made in pursuance of the provisions of section seventy-six shall not be subject to taxation, nor to the subsequent provisions of this Part with respect to the signing and delivery of a practitioner's bill. Agreement excludes taxation

81. (1) Nothing in section seventy-six, seventy-seven, seventy-eight, seventy-nine or eighty shall give validity to-Miscellaneous provisions as to remuneration for contentious business

(a) any purchase by a practitioner of the interest, or any part of the interest, of his client in any action, suit or other contentious proceedings; or

(b) any agreement by which a practitioner retained or employed to prosecute any action, suit or other contentious proceeding stipulates for payment only in the event of success of that action, suit or proceeding; or

(c) any disposition, contract, settlement, conveyance, delivery, dealing or transfer which is under the law relating to bankruptcy invalid against a trustee or creditor in any bankruptcy or composition.

(2) A practitioner may, with respect to a contentious business to be done by him, take security from his client for his costs to be ascertained by taxation or otherwise.

(3) Subject to the provisions of any rules of court, upon every taxation of costs with respect to any contentious business, the taxing officer may-

(a) allow interest at such rate and from such time as he thinks just on moneys disbursed by the practitioner for the client, and on moneys of the client in the hands of, and improperly retained by, the practitioner;

(b) in determining the remuneration of the practitioner, have regard to the skill, labour and responsibility involved in the business done by him.

82. The jurisdiction of the Court to make orders for the delivery by a practitioner of a bill of costs and for the delivery up of, or otherwise in relation to, any deeds, documents or papers in his possession, custody or power, is hereby declared to extend to cases in which no business has been done by him in the Court. Power of Court to order practitioner to deliver his bill and to deliver up deeds

83. (1) Every advocate may, subject to the provisions of this Act and to any rules of court, sue for and recover his fees in respect of services rendered, but shall be subject to all such liabilities as attach by this Act or any other law, to an advocate, in whatever capacity his services may have been rendered. Action to recover practitioner's costs

(2) Subject to the provisions of this Act, no action shall be brought to recover any costs due to a practitioner until one month after a bill thereof has been delivered in accordance with the requirements of any rules of court:

Provided that, if there is probable cause for believing that the party chargeable with the costs is about to quit Zambia, or to become a bankrupt, or to compound with his creditors, or to do any other act which would tend to prevent or delay the practitioner obtaining payment, the Court may, notwithstanding that one month has not expired from the delivery of the bill, order that the practitioner be at liberty to commence an action to recover his costs and may order those costs to be taxed.

84. Any court in which a practitioner has been employed to prosecute or defend any suit, matter or proceeding may at any time declare the practitioner entitled to a charge on the property recovered or preserved through his instrumentality for his taxed costs in reference to that suit, matter or proceeding, and may make such orders for the taxation of the said costs and for raising money to pay, or for paying, the said costs out of the said property as it thinks fit, and all conveyances and acts done to defeat, or operating to defeat, that charge shall, except in the case of a conveyance to a bona fide purchaser for value without notice, be void as against the practitioner: Charging orders

Provided that no order shall be made if the right to recover the costs is barred by limitation.

PART X

MISCELLANEOUS

85. Any person duly admitted as a practitioner shall be an officer of the Court and shall be subject to the jurisdiction thereof. Practitioners to be officers of the Court

86. In any proceedings under the provisions of this Act, the onus of proving that an accused person is a practitioner or has been admitted to practice as a Notary Public shall lie with the defence. Onus of proof

87. (1) The Court may, on the application of the Disciplinary Committee, order that any expenses incurred by that committee in carrying out any provisions of this Act, or in supporting any report before the Court, shall be paid by the practitioner concerned or by any party on whose application such expenses have been incurred. Payment of expenses of Disciplinary Committee

(2) When any such expenses have been ordered to be paid and are not paid within twelve months from the date of the order, they shall, provided the Attorney-General certifies that such expenses are not likely to be recovered, be paid out of the general revenues of the Republic on the warrant of the President.

88. All regulations, certificates, notices and other documents made or issued by any committee established under the provisions of this Act for any purpose whatsoever may be signed on behalf of such committee by such member or other person as the committee may for that purpose appoint. Authentication of regulations and other documents

89. The Chief Justice may, by statutory instrument, make rules of court for the better carrying into effect of the provisions of this Act and in particular prescribing anything which by any of the said provisions is to be prescribed. Rules of court

90. The Disciplinary Committee, with the concurrence of the Chief Justice, may for the purposes of this Act, by statutory instrument, make general regulations with respect to the following matters or any of them:

- (a) the keeping of accounts by practitioners;
- (b) practice and etiquette;

and all such further or other general regulations as may be deemed necessary or proper for giving full force and effect to the provisions of this Act. General regulations

91. Nothing in this Act shall prejudice or affect the provisions of any Act or rules made thereunder, empowering any person, not being a practitioner, to conduct, defend or otherwise act in relation to any proceedings. Saving of other written laws

92. (1) The Legal Practitioners Act, Chapter 48 of the Revised Edition (hereinafter referred to as the former Act) is hereby repealed. Repeal and savings

(2) Notwithstanding the repeal of the former Act-

(a) all rules, regulations, orders and statutory instruments made under or continued by the provisions of the former Act and operative immediately before the commencement of this Act shall, in so far as they are not inconsistent with the provisions of this Act, continue to be in force, until altered or revoked by the competent authority;

(b) the Disciplinary Committee, the Remuneration Committee, the Council of Legal Education, the Zambia Institute for Advanced Legal Education and any other committee or body established or formed under the former Act and existing immediately before the commencement of this Act shall continue to operate under the provisions of this Act, and shall be deemed to have been established and formed under this Act, as if this Act were in force when any such Committee, Council, Institute or body was established or formed;

(c) all nominations and appointments made, certificates issued, notices given, oaths taken and other things done under the former Act which were effective immediately before the commencement of this Act shall continue to be effective, as if they were made, issued, given, taken or done under this Act;

(d) all applications made, appeals lodged, proceedings instituted or other action or matter commenced under the provisions of the former Act and pending before any court or authority immediately before the commencement of this Act, shall be proceeded with and determined in accordance with the provisions of this Act, as if they had been made, lodged, instituted or commenced under this Act;

(e) the Roll of practitioners kept in accordance with the provisions of the former Act, as it subsisted immediately before the commencement of this Act, shall be deemed to be the Roll kept in accordance with the provisions of this Act;

(f) the Compensation Fund established under the former Act shall be deemed to be the Compensation Fund established under this Act and shall be maintained and administered in accordance with the provisions of this Act.

FIRST SCHEDULE

(Section 13)

OATH OF ALLEGIANCE

I, , do swear that I will be faithful and bear true allegiance to the President of the Republic of Zambia, and that I will preserve, protect and defend the Constitution of Zambia as by law established.

SO HELP ME GOD

Sworn in open court this day of, 19 .

Before me

Chief Justice

OATH OF OFFICE

I,

, do swear that

I will truly and honestly demean myself in the practice of an advocate according to the best of my knowledge and ability.

SO HELP ME GOD

Sworn in open court this day of
19 .

Before me

Chief Justice

SECOND SCHEDULE

(Section 40)

PROVISIONS WITH REGARD TO THE FORMATION, ADMINISTRATION AND APPLICATION OF THE COMPENSATION FUND AND MATTERS CONNECTED THEREWITH

1. There shall be carried to the credit of the Compensation Fund-

(a) all contributions paid to the Association in pursuance of the provisions of section 40;

(b) all interest, dividends and other income and accretions of capital arising from investments of the Compensation Fund or any part thereof;

(c) the proceeds of the realisation of any investments of the Compensation Fund;

(d) all sums received by the Association under any insurance effected by the Association under section 40;

(e) all sums received by the Association under the provisions of section 40 (7); and

(f) any other moneys which may belong or accrue to the Compensation Fund or be received by the Association in respect thereof.

2. All moneys from time to time forming part of the Compensation Fund and all investments of the Compensation Fund shall be applicable as follows:

(a) for payment of all costs, charges and expenses of establishing, maintaining, administering and applying the Compensation Fund;

(b) for payment of any premiums on insurances effected by the Association under section 40;

(c) for payment of any grants which the Association may make in pursuance of the provisions of section 40 for any of the purposes mentioned in that section;

(d) for payment of all costs, charges and expenses incurred by the Association under or in the exercise of the powers conferred by this Schedule; and

(e) for payment of any other sums properly payable out of the Compensation Fund in pursuance of the provisions of section 40, this Schedule or any rules made under section 40.

3. The Council or any committee appointed by the Council and authorised by them to exercise any of their functions under section 40 or to assist them in the exercise of such functions may, for the purposes of inquiry into any matters which may affect the making or refusal of a grant under section 40, administer oaths.

4. (1) If the Council have reasonable cause to believe that a practitioner or his clerk or servant has been guilty of any dishonesty as is mentioned in

section 40, they may require the production or delivery to any person appointed by the Council at a time and place to be fixed by the Council, and may take possession of all deeds, wills, securities, papers, books of account, records, vouchers and other documents in the possession or control of such practitioner or his firm, or relating to any trust of which he is a sole trustee or is co-trustee only with a partner, clerk or servant of his or with more than one of such persons.

(2) If any person having possession or control of any such deeds, wills, securities, papers, books of account, records, vouchers or documents, refuses or fails forthwith after being required by the Council so to do to produce or deliver the same, or cause the same to be produced or delivered in manner aforesaid, such person shall be liable to a fine not exceeding one thousand penalty units, and the Council may apply to the Court or a Judge therefore for an order and the Court or a Judge thereof may on such application make an order upon such person to produce or deliver the same or cause the same to be produced or delivered in manner aforesaid within such time as the Court or a Judge thereof may order.

(3) Upon taking possession of any such deeds, wills, securities, papers, books of account, records, vouchers or documents which shall have been delivered to the Council, the Council shall serve upon such practitioner and every person from whom they shall have been received, a notice giving particulars and the date of taking possession thereof.

(4) Every requirement and notice to be made or given under this paragraph shall be made in writing under the hand of such person as may be appointed by the Council for the purpose. The Council may serve any such requirement or notice on any practitioner or other person as aforesaid personally or by forwarding it by registered letter addressed to his last known place of business or residence.

(5) Within fourteen days after a notice under sub-paragraph (3) has been served in accordance with sub-paragraph (4), the practitioner or other person upon whom such notice has been served as aforesaid may apply to a Judge of the Court in Chambers for an order directing the Council to return such deeds, wills, securities, papers, books of account, records, vouchers or documents to the person or persons from whom the same were received by the Council or to such other person or persons as the applicant may require. On the hearing of such application of the Judge may make the order applied for or such other order with respect to the matter as he may think fit.

(6) If no application shall be made to a Judge of the Court in accordance with sub-paragraph (5), or if the Judge to whom such an application is made shall direct that the deeds, wills, securities, papers, books of account, records, vouchers or documents shall remain in the custody or control of the Council, the Council may make inquiries to ascertain the person or persons to whom the same belong and may deal with the same in accordance with the directions of such person or persons.

(7) In this paragraph "securities" means documents constituting or evidencing the title to any property.

5. If the Council are satisfied that a practitioner or his clerk or servant has been guilty of any such dishonesty as is mentioned in section 40, they may apply to the Court or a Judge thereof for an order, and the Court or a Judge thereof may on such application make an order that no payment shall be made

without the leave of the Court or a Judge thereof by any banker named in the order out of any banking account in the name of such practitioner or his firm.

6. Every application to a Judge in Chambers under paragraph 4 (5) and every application to the Court or a Judge thereof under paragraph 4 (2) or under paragraph 5 shall be made in such form and heard in such manner as may be prescribed by rules made from time to time by the Chief Justice.

(As amended by Act No. 13 of 1994)

THIRD SCHEDULE

(Section 69)

CONTROL OF PROPERTY OF A PRACTITIONER IN CERTAIN CASES

1. The Association may require the production or delivery to any person appointed by the Association at a time and place to be fixed by the Association and may take possession of all deeds, wills, documents constituting or evidencing the title to any property, papers, books of account, records, vouchers and other documents in the possession or control of the practitioner or his firm, or relating to any trust of which he is sole trustee or is co-trustee only with one or more of his partners, clerks or servants.

2. If any person having possession or control of any such document fails to comply forthwith with any such requirement-

(a) he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding one thousand penalty units; and

(b) the High Court or a Judge thereof may on the application of the Association order that person to comply with the requirement within such time as may be specified in the order.

3. Upon taking possession of any such documents, the Association shall serve upon the practitioner and every person from whom those documents were received a notice giving particulars and the date of taking possession thereof.

4. Any requirement or notice under this Schedule shall be made in writing under the hand of such person as may be appointed by the Association for the purpose and may be served on any person either personally or by forwarding it by registered letter addressed to his last known place of business or residence.

5. Within fourteen days after the service of a notice under paragraph 3, the practitioner or other person upon whom the notice was served may apply to a Judge of the High Court in Chambers for an order directing the Association to return those documents to the person from whom they were received by the Association or to such other person as the applicant may require and on the hearing of any such application the Judge may make such order with respect to the matter as he may think fit.

6. If no application is made under paragraph 5, or if the Judge to whom any such application is made directs that the documents shall remain in the custody or control of the Association, the Association may make inquiries to ascertain the person to whom those documents belong and may deal with those documents in accordance with the directions of that person.

7. The High Court or a Judge thereof may, on the application of the Association, order that no payment shall be made without the leave of the High Court or a Judge thereof by any banker named in the order out of any banking account in the name of the practitioner or his firm.

8. Any application to a Judge of the High Court in Chambers under paragraph 5 or to the High Court or a Judge thereof under paragraph 2 or 7 shall be made in such form and heard in such manner as may be prescribed by rules of court.

9. The Association may make rules with respect to the procedure to be followed in giving effect to the provisions of paragraphs 1, 3, 4 and 6 and with respect to any matters incidental, ancillary or supplemental to those provisions.

(As amended by Act No. 13 of 1994)

SUBSIDIARY LEGISLATION

LEGAL PRACTITIONERS CAP. 30

ORDERS, REGULATIONS AND RULES MADE UNDER THE
LEGAL PRACTITIONERS ACT-CHAPTER 30 OF THE
REVISED EDITION

(Section 15 of the Interpretation and General Provisions Act)

THE COUNCIL OF LEGAL EDUCATION
(EXPENSES) ORDER Statutory Instrument
445 of 1968
13 of 1994

Order by the Minister

1. This Order may be cited as the Council of Legal Education (Expenses)
Order. Title

2. The members of the Council of Legal Education appointed pursuant to paragraphs (e), (f) and (g) of subsection (2) of section seven of the Act shall, when discharging their duties as such members, be paid travelling and subsistence expenses in amounts calculated at the rates shown in the Schedule. Calculation of travelling and subsistence expenses

SCHEDULE

(Paragraph 2)

A. Travelling Expenses:

(1) Air or Rail: Cost of return ticket for air flight or first class rail journey will be refunded.

(2) Motor Vehicle: Where journey exceeds eight kilometres, the rate of 2 fee units per kilometre will be paid.

B. Subsistence Expenses:

135 fee units per day subsistence will be paid.

(As amended by Act No. 13 of 1994)

THE LAW PRACTICE INSTITUTE
(ESTABLISHMENT) ORDER Statutory Instrument
269 of 1968

Order by the Minister

1. This Order may be cited as the Law Practice Institute (Establishment)
Order. Title

2. There is hereby established, for the purposes of Part III of the Act, a Law Practice Institute. Establishment of Law Practice Institute

THE LEGAL PRACTITIONERS (QUALIFICATIONS)
(PRESCRIBED DEPARTMENTS) ORDER Statutory Instruments
248 of 1968
287 of 1968

Order by the Minister

1. This Order may be cited as the Legal Practitioners (Qualifications) (Prescribed Departments) Orders. Title
2. The departments of Government set out in the Schedule shall be prescribed departments of Government for the purposes of section eleven of the Act. Prescribed departments

SCHEDULE

(Paragraph 2)

1. Attorney-General's Department.
2. Judicial Department.
3. Administrator-General's Department.
4. Registry of Deeds.
5. Department of Legal Aid.
6. Lands Department.

THE LEGAL PRACTITIONERS (DISCIPLINARY PROCEEDINGS) RULES

ARRANGEMENT OF RULES

PART I

PRELIMINARY

Rule

1. Title
2. Interpretation

PART II

APPLICATIONS AGAINST PRACTITIONERS

3. Application against practitioner and affidavit by applicant
4. Committee may require further information
5. Dismissal of application

6. Notice of hearing
7. List of documents
8. Inspection of documents
9. Failure to appear
10. Evidence by affidavit
11. Report of findings

PART III

APPLICATIONS AT THE INSTANCE OF A PRACTITIONER HIMSELF

12. Application for removal from the Roll
13. Affidavit
14. Notice of hearing
15. Grounds of objection
16. Adjournment of hearing
17. Application of Parts II and IV
18. Recommendation of Committee

PART IV

GENERAL

Rule

19. Quorum
20. Hearing in private
21. Reference to the Council
22. Withdrawal of application
23. Adjournment of hearing
24. Amendment, etc., of affidavit
25. Costs
26. Notes of proceedings and inspection thereof
27. Service of documents
28. Power of Committee to dispense with documents, etc.

29. Extension of time
30. Application of Evidence Act
31. Admission of authenticity of documents
32. Summons to give evidence and produce documents

SCHEDULE-Prescribed forms

THE LEGAL PRACTITIONERS (DISCIPLINARY PROCEEDINGS) RULES

Rules made by the Disciplinary Committee, with the concurrence of the Chief JusticeGovernment Notices

259 of 1957

497 of 1964

Statutory Instrument

72 of 1964

PART I

PRELIMINARY

1. These Rules may be cited as the Legal Practitioners (Disciplinary Proceedings) Rules. Title

2. (1) In these Rules, unless the context otherwise requires-

"the Committee" means the Disciplinary Committee;

"the Secretary" means the Secretary to the Committee or any deputy or person appointed by the Committee temporarily to perform the duties of that office. Interpretation

(2) Other expressions in these Rules have the meanings assigned to them in the Act.

(3) The Interpretation and General Provisions Act applies to these Rules in the same manner as it applies to an Act. Cap. 2

PART II

APPLICATIONS AGAINST PRACTITIONERS

3. An application to the Committee to strike the name of a practitioner off the Roll of Solicitors and to require a practitioner to answer allegations contained in an affidavit shall be in writing under the hand of the applicant in the form set out in the Schedule and numbered 1, as shall be appropriate, and shall be sent to the Secretary together with an affidavit by the applicant in the form set out in the Schedule and numbered 2, or as near thereto as the circumstances may permit, stating the matters of fact on which he relies in support of his application: Application against practitioner and affidavit by applicant

Provided that where the application is made by the Society, the application may be signed and the affidavit sworn on behalf of the Society by such officer as

may from time to time be prescribed by the Council.

4. Before fixing a day for the hearing, the Committee may require the applicant to supply such further information and documents relating to the application as it thinks fit. Committee may require further information

5. In the case of an application against a solicitor where, in the opinion of the Committee, no prima facie case is shown in favour of the application, the Committee may dismiss the application without requiring the practitioner to answer the allegations, and without hearing the applicant. If required so to do, either by the applicant or the practitioner, the Committee shall make a formal order dismissing such application. Dismissal of application

6. In the case of an application against a practitioner in which, in the opinion of the Committee, a prima facie case is shown in favour of the application, the Committee shall fix a day for the hearing, and the Secretary shall serve notice thereof on each party to the proceedings and shall serve on each party, other than the applicant, a copy of the application and affidavit. There shall be at least twenty-one days between the service of any such notice and the day fixed therein for the hearing. Notice of hearing

7. The notice shall be in such one of the forms set out in the Schedule and numbered 3, 4, 6 and 7, as shall be appropriate, and shall require the party to whom it is addressed to furnish to the Secretary and to every other party at least fourteen days before the day fixed for the hearing, unless the Committee directs otherwise, a list of all documents on which he intends to rely. List of documents

8. Any party may inspect the documents included in the list furnished by any other party. A copy of any document mentioned in the list furnished by any party shall, on application and on payment of the proper charges therefor, by the party requiring it, be furnished to that party by the other within three days after the receipt of such application. All inspections within this rule shall be completed not less than seven days before the date fixed for the hearing. Inspection of documents

9. If any party fails to appear at the hearing, the Committee may, upon proof of service on such party of the notice of hearing, proceed to hear and determine the application in his absence. Failure to appear

10. The Committee may, in its discretion, either as to the whole case or as to any particular fact or facts, proceed and act upon evidence given by affidavit: Evidence by affidavit

Provided that any party to the proceedings may require the attendance upon subpoena of any deponent to any such affidavit for the purpose of giving oral evidence, unless the Committee is satisfied that the affidavit is purely formal and that the requirement of the attendance of the deponent is made with the sole object of causing delay.

11. The Committee on the termination of the hearing shall embody its findings in the form of a report to the Court which shall be signed and filed with the Registrar, and shall be open to inspection by the practitioner to whom the application relates and his counsel (if any) and also by the applicant, but shall not be open to public inspection. The evidence taken and the documents put in evidence at the hearing shall be filed with the Registrar at the same time as the findings and the report. Report of findings

PART III

APPLICATIONS AT THE INSTANCE OF A PRACTITIONER HIMSELF

12. An application by a practitioner to procure his name to be removed from the Roll shall be made by way of affidavit in the form set out in the Schedule and numbered 5. Application for removal from the Roll

13. The affidavit shall be sent to the Secretary and a copy thereof to the Society, and unless the Committee directs otherwise, shall be supported by letters from two practising practitioners to whom the applicant is known. Affidavit

14. The Committee may decide upon the application without requiring the attendance of the applicant. In any other case the Committee shall fix a day for the hearing and the Secretary shall serve notice thereof on the applicant and the Registrar at least twenty-one days before the day fixed for the hearing. The Committee may, if it thinks fit, require the applicant to give notice of his application and of the day fixed for the hearing by advertisement or otherwise, as it may direct. Notice of hearing

15. If any person desires to object to the application, he shall give notice in writing to the applicant, the Society and the Secretary at least seven days before the day fixed for the hearing, specifying the grounds of his objection. Grounds of objection

16. If the objector appears on the day fixed for the hearing, and if the Committee is of opinion, after hearing the parties or either of them (if it thinks fit so to do), that the notice discloses a prima facie case for inquiry, it shall adjourn the hearing and shall give directions relating to the adjourned hearing, including directions as to the party on whom the burden of proof shall lie. Adjournment of hearing

17. The Rules contained in Parts II and IV shall apply mutatis mutandis to the hearing of any application under this Part. Application of Parts II and IV

18. In respect of any application by a practitioner to procure his name to be removed from the Roll, the Committee may recommend to the Chief Justice that the name of the practitioner be removed from the Roll, or that the application be refused, and on such refusal may make such order as to the costs as it thinks fit.

Recommendation of Committee

PART IV

GENERAL

19. Where the Committee sits, five members shall constitute a quorum. Quorum

20. The Committee shall hear all applications in private. Hearing in private

21. The Committee may, at any stage of the proceedings against a solicitor, refer the case to the Council and may adjourn the application pending the consideration thereof by the Council in case the Council should see fit either to lodge a further application against the practitioner or to undertake on

behalf of the original applicant the prosecution of his application. Reference to the Council

22. Unless the Committee directs otherwise, no application shall be withdrawn after it has been sent to the Secretary. Where a party has applied for leave to withdraw his application, the Committee may, upon such terms as to costs or otherwise as it shall think fit, grant such leave, or of its own motion or upon the application of any party, adjourn the hearing. Withdrawal of application

23. The Committee may, of its own motion or upon the application of any party, adjourn the hearing upon such terms as to costs, or otherwise, as the Committee shall think fit. Adjournment of hearing

24. If upon the hearing it shall appear to the Committee that the allegations in the affidavit require to be amended, or added to, the Committee may permit such amendment, or addition, or if in the opinion of the Committee such amendment or addition is not within the scope of the affidavit, may require the same to be embodied in a further affidavit: Amendment, etc., of affidavit

Provided that if such amendment, or addition, shall be such as to take any party by surprise, or prejudice the conduct of his case, the Committee shall grant an adjournment of the hearing, upon such terms as to costs, or otherwise, as the Committee shall think fit.

25. Upon the hearing, or determination, of any application, the Committee may, in the case of an application against a practitioner, without finding any misconduct proved against the practitioner, nevertheless order any party to pay the costs of the proceedings if, having regard to his conduct and to all the circumstances of the case, the Committee shall think fit. Costs

26. Shorthand notes of proceedings may be taken by a person appointed by the Committee; and any party who appeared at the proceedings shall be entitled to inspect the transcript thereof. The shorthand writer shall, if required, supply to the Committee and to any person entitled to be heard upon an appeal against an order of the Committee, and to the Society, but to no other person, a copy of the transcript of such notes on payment of his charges. If no shorthand notes be taken, the Chairman of the Committee shall take a note of the proceedings, and the provisions of this rule as to inspection and taking of copies shall apply to such note accordingly. Notes of proceedings and inspection thereof

27. Service of any notice or document may be effected under these Rules by registered "A.R." letter addressed, in the case of a practitioner, to his place of business appearing in the register compiled under section thirty-three (2) of the Act and, in every other case, to the last known place of business or abode of the person to be served, and such service shall be deemed to be effected at the time when the letter would be delivered in the ordinary course of post. Service of documents

28. The Committee may dispense with any requirements of these Rules respecting notices, affidavits, documents, service, or time, in any case where it appears to the Committee to be just so to do. Power of Committee to dispense with documents, etc.

29. The Committee may extend the time for doing anything under these Rules. Extension of time

30. The Evidence Act shall apply in relation to proceedings before the

Committee in the same manner as it applies in relation to civil and criminal proceedings. Application of Evidence Act.
Cap. 43

31. (1) Any party may, by notice in writing at any time not later than nine days before the day fixed for the hearing, call upon any other to admit any document, saving all just exceptions, and if such other party desires to challenge the authenticity of the document, he shall, within six days after service of such notice, give notice that he does not admit the document and requires it to be proved at the hearing. Admission of authenticity of documents

(2) If such other party refuses or neglects to give notice of non-admission within the time prescribed in sub-rule (1), he shall be deemed to have admitted the documents unless otherwise ordered by the Committee.

(3) Where a party gives notice of non-admission within the time prescribed by sub-rule (1) and the document is proved at the hearing, the costs of proving the document shall be paid by the party who has challenged the document whatever the decision of the Committee may be, unless in its findings the Committee shall find that there were reasonable grounds for not admitting the authenticity of the document.

(4) Where a party proves a document without having given notice to admit under sub-rule (1), no costs of proving the document shall be allowed on taxation, unless otherwise directed by the Committee, except where the omission to give notice to admit is in the opinion of the Taxing Master a saving of expense.

32. A subpoena issued under section nineteen (2) or thirty (5) of the Act shall be in such one of the forms set out in the Schedule and numbered 6 and 7, as shall be appropriate. Summons to give evidence and produce documents

SCHEDULE

PRESCRIBED FORMS

FORM 1

(Rule 3)

FORM OF APPLICATION AGAINST A PRACTITIONER

To: The Secretary to the Disciplinary Committee constituted under the Legal Practitioners Act.

In the matter of C.D.,* a Practitioner,

and

In the matter of the Legal Practitioners Act.

I, the undersigned, A.B. hereby make application-

(a) that C.D.* of ., Practitioner, may be required to answer the allegations contained in the affidavit which accompanies this application; and

(b) that the name of C.D.* of Solicitor,

may be struck off the Roll of Practitioners; or

(c) that such other order may be made as the Committee shall think right.

In witness whereof I have hereunto set my hand this day of

..... , 19..... .

..... Signature.

..... Address.

..... Profession, business, or occupation.

* The full name must be stated. Initials are not sufficient. The names may be obtained by an inspection of the Register of Practitioners at the Law Association of Zambia during usual office hours.

Last known place or places of business of the Practitioner.

The applicant may, but need not, strike out either (a) or (b).The applicant may, but need not, strike out either (a) or b)

FORM 2

(Rule 3)

FORM OF AFFIDAVIT BY APPLICANT

In the matter of C.D., a Practitioner,
and

In the matter of the Legal Practitioners Act.

I, * A.B., of
make oath and say as follows:

(1) C.D., of ., Solicitor,
practising at in the firm of
..... has been employed by me in a professional
capacity for the last years (or as the case may be).

(2) (Here state the facts concisely in numbered paragraphs, and show
deponent's means of knowledge.)

Sworn by the said
at on the day
of.....19..... .

Before me

* Insert full name, address and description.

Insert full name and last known place of business.}

FORM 3

(Rule 7)

FORM OF NOTICE TO APPLICANT BY THE SECRETARY TO THE DISCIPLINARY COMMITTEE

In the matter of C.D., a Practitioner,

and

In the matter of the Legal Practitioners Act.

To: A.B., of.....

The day of is the day fixed by the Disciplinary Committee constituted under the Legal Practitioners Act for the hearing of your application in the matter of C.D., practitioner.

The Committee will sit at the Lusaka, at o'clock in the noon.

You are required by the Legal Practitioners (Disciplinary Proceedings) Rules to furnish to every other party to the application and to the Secretary to the Disciplinary Committee at Farmers' House, Cairo Road, Lusaka, at least fourteen days before the said day of a list of all the documents on which you propose to rely.

Any party may inspect the documents included in the list furnished by any other, and a copy of any document mentioned in the list of any party must, on application and on payment by the party requiring it of the proper charges, be furnished to that party by the other within three days after receipt of such application.

If any party shall fail to appear and the Committee decides to proceed in his absence, any party appearing must be prepared to prove service, in accordance with the Legal Practitioners (Disciplinary Proceedings) Rules, of the list of documents and any other notice or correspondence since the lodging of the application.

You are requested to acknowledge the receipt of this notice without delay.

Dated this day of, 19.....

Secretary to the Committee

(N.B.-A print of the Legal Practitioners (Disciplinary Proceedings) Rules is sent herewith for your information and guidance.)

FORM 4

(Rule 7)

FORM OF NOTICE TO PRACTITIONERS BY THE SECRETARY TO THE
DISCIPLINARY COMMITTEE

In the matter of C.D., a Practitioner,

and

In the matter of the Legal Practitioners Act.

To: C.D., of , Practitioner.

Application has been made by A.B., of.
to the Disciplinary Committee constituted under the Legal Practitioners Act,
that you may be required to answer the allegations contained in the affidavit,
whereof a copy accompanies this notice, and that your name may be struck off the
Roll of Practitioners, or that such order may be made as the Committee shall
think right.

The day of..... , is the day fixed by the Committee for
the hearing of the application. The Committee will sit at the

Lusaka ato'clock in the noon.
If you fail to appear, the Committee may, in accordance with the Legal
Practitioners (Disciplinary Proceedings) Rules, proceed in your absence.

You are required by the said Rules to furnish to every other party to the
application and to the Secretary to the Disciplinary Committee at Farmers'
House, Cairo Road, Lusaka, at least fourteen days before the said
..... day of , a list of all the documents on
which you propose to rely.

Any party may inspect the documents included in the list furnished by any
other, and a copy of any document mentioned in the list of any party must, on
application and on payment by the party requiring it of the proper charges, be
furnished to that party by the other within three days after receipt of such
application.

You are required to acknowledge the receipt of this notice without delay.

Dated thisday of , 19..... .

Secretary to the Committee

(N.B.-A print of the Legal Practitioners (Disciplinary Proceedings) Rules is
sent herewith for your information and guidance.)

FORM 5

(Rule 12)

FORM OF AFFIDAVIT BY APPLICANT, BEING A LEGAL PRACTITIONER

In the matter of C.D., a Practitioner.

and

In the matter of the Legal Practitioners Act.

I, C.D., of make oath and say as follows:

(1) I was admitted a practitioner on theday of.....

(2) I desire that my name may be removed from the Roll of Practitioners for the following reasons:

(Here state the reasons.)

(3) I am not aware of, and do not know of any cause for, any application to the Court or to the Disciplinary Committee constituted under the Legal Practitioners Act, that my name may be struck off the Roll of Practitioners, or that I should answer the allegations contained in an affidavit. I do not make this application for the purpose of evading any adverse application, or of defeating or delaying any claim upon me as a practitioner.

Sworn by the said
at on the day
of.....19.....

Before me

}

FORM 6

(Rules 7 and 32)

FORM OF SUBPOENA AD TESTIFICANDUM

In the matter of C.D., a Practitioner,

and

In the matter of the Legal Practitioners Act.

To:

You are commanded to attend before the Disciplinary Committee constituted under the Legal Practitioners Act at on day, the day of at the hour of in the noon, and so from day to day until the application in the above matter is heard, to give evidence on behalf of

WITNESS

Chief Justice of Zambia, theday of in the year of Our Lord one thousand nine hundred and.....

(S.I. No. 72 of 1964)

FORM 7

(Rules 7 and 32)

FORM OF SUBPOENA DUCES TECUM

In the matter of C.D., a Practitioner,

and

In the matter of the Legal Practitioners Act.

To:

You are commanded to attend before the Disciplinary Committee constituted under the Legal Practitioners Act at on day, the day of at the hour of in the noon, and so from day to day until the application in the above matter is heard, to give evidence on behalf of and also to bring with you and produce at the time and place aforesaid (specify documents to be produced).

WITNESS

Chief Justice of Zambia, theday ofin the year of Our Lord one thousand nine hundred and.....

(S.I. No. 72 of 1964)

THE DISCIPLINARY PROCEEDINGS (CONSIDERATION OF REPORTS) RULES OF COURT
Notices
211 of 1958
497 of 1964

Rules by the Chief Justice

1. These Rules may be cited as the Disciplinary Proceedings (Consideration of Reports) Rules of Court.
2. Any notice required to be given under the provisions of section twenty-one (2) of the Act shall be substantially in the form prescribed in the Schedule with such modifications as the circumstances may require.
3. Upon the laying before the Court of a copy of a report as provided by section eighteen (3) (c) (i) of the Act, the Secretary to the Disciplinary Committee shall furnish the Court with an address at which notices may be served upon him and a further address at which the practitioner may be served and any notices to be given under section twenty-one of the Act shall be served if left at or sent by registered post to the person to whom it is directed at such respective addresses.

SCHEDULE

(Rule 2)

In the High Court for Zambia.

In the matter of the Legal Practitioners Act,

and

In the matter of _____, a
Practitioner.

NOTICE OF CONSIDERATION BY COURT OF REPORT OF DISCIPLINARY COMMITTEE

WHEREAS in pursuance of section 18 of the Legal Practitioners Act (hereinafter referred to as "the Act"), the Disciplinary Committee, established under section 4 of the Act, has prepared a report duly signed pursuant to section 18 (3) (b) of the Act embodying certain findings in the matter of an application made to and heard by the said Committee concerning the above-mentioned practitioner under section 18 (1) of the Act, a copy of which report accompanies this notice;

AND WHEREAS the said report has been filed with the Registrar of this Court and a further signed copy thereof, together with the evidence taken and the documents put in evidence at the hearing, has been laid before the Court:

NOW THEREFORE TAKE NOTICE that the Court has set down such report for consideration

at _____
at _____ o'clock in the _____ noon on _____ the
day of _____ 19 _____ .

Dated the _____ day of _____ 19 ____ .

Registrar

To: The Secretary to the Disciplinary Committee constituted under the Legal Practitioners Act.

And to:

_____, Esq., the
above-mentioned
practitioner.

SECTION 90-THE LEGAL PRACTITIONERS (ACCOUNTANT'S CERTIFICATE)
REGULATIONS Statutory Instrument
9 of 1975

Regulations made by the Disciplinary Committee, with the concurrence of the Chief Justice

1. These Regulations may be cited as the Legal Practitioners (Accountant's Certificate) Regulations. Title

2. In these Regulations, unless the context otherwise requires- Interpretation

"accountant" means a person qualified in accordance with the provisions of regulation 7;

"practice year" means each period of twelve months ending with the 31st December;

"public officer" means an officer holding one of the offices to which subsection (2) of section three of the Act applies;

"Secretary" means the Secretary for the time being of the Association.

3. (1) Except in the circumstances in which regulation 10 applies, every practitioner shall once in each practice year deliver to the Association a certificate signed by an accountant and complying with the provisions of this regulation (which certificate is in these Regulations referred to as "an accountant's certificate"). Certificate

(2) Subject to the provisions of regulations 11 and 12, the accounting period for the purposes of an accountant's certificate shall- Accounting period

(a) begin at the expiry of the last preceding accounting period for which an accountant's certificate shall have been delivered;

(b) cover not less than twelve months;

(c) terminate not more than six months before the date of the delivery of the certificate to the Association;

(d) where possible, consistently with paragraphs (a), (b) and (c), correspond to a period or consecutive periods for which the accounts of the practitioner or his firm are ordinarily made up.

4. If any practitioner fails to comply with the provisions of these Regulations, a complaint in respect of that failure may be made by or on behalf of the Association to the Disciplinary Committee under the provisions of the Legal Practitioners (Disciplinary Proceedings) Rules. Non-compliance

5. A certificate under the hand of the Secretary shall, until the contrary is proved, be evidence that a practitioner has or has not, as the case may be, delivered to the Association an accountant's certificate or supplied any evidence required under these Regulations. Evidence of delivery of certificate

6. Where a practitioner is employed as a public officer-Exemption of certain officers

(a) nothing in these Regulations shall apply to him unless he takes out a practising certificate;

(b) an accountant's certificate shall in no case deal with books, accounts or documents kept by him in the course of his employment as a public officer;

(c) no examination shall be made of those books, accounts and documents under these Regulations.

7. (1) An accountant shall be qualified to give an accountant's certificate on behalf of a practitioner if- Qualification of accountant

(a) he is a member of-

(i) The Zambia Association of Accountants and is in practice as an accountant as a principal on his own account or in partnership; or

(ii) The Institute of Chartered Accountants in England and Wales; or

(iii) The Institute of Chartered Accountants in Ireland; or

(iv) The Institute of Chartered Accountants of Scotland; or

(v) The Association of Certified Accountants of England and Wales; and

(b) he has neither been at any time during the accounting period, nor subsequently, before giving the certificate, become a partner, clerk or servant of such practitioner or of any partner of his; and

(c) he is not subject to notice of disqualification under sub-regulation (2).

(2) In either of the following cases, that is to say where-

(a) the accountant has been found guilty by the Disciplinary Tribunal of his professional body of professional misconduct or discreditable conduct; or

(b) the Council are satisfied that a practitioner has not complied with the provisions of Part VIII of the Act in respect of matters not specified in an accountant's certificate and that the accountant was negligent in giving such certificate, whether or not an application be made for a grant out of the Compensation Fund;

the Council may, at their discretion, at any time notify the accountant concerned that he is not qualified to give an accountant's certificate, and they

may give notice of such fact to any practitioner on whose behalf he may have given an accountant's certificate, and after such accountant shall have been so notified, unless and until such notice of disqualification shall have been withdrawn by the Council, shall not be qualified to give an accountant's certificate. In coming to their decision, the Council shall take into consideration any observations or explanations made or given by such accountant or on his behalf by the professional body of which he is a member.

8. (1) With a view to the signing of an accountant's certificate, an accountant shall not be required to do more than—Details of work to be done by accountant

(a) make a general test examination of the books of account of the practitioner;

(b) ascertain whether a client account is kept;

(c) make a general test examination of the bank passbooks and statements kept in relation to the practitioner's practice;

(d) make a comparison as at not fewer than two dates selected by the accountant between—

(i) the liabilities of the practitioner to his clients as shown by his books of account; and

(ii) the balances standing to the credit of the client account; and

(e) ask for such information and explanations as he may require arising out of (a) to (d) above.

(2) If, after making the investigation prescribed by sub-regulation (1), it appears to the accountant that there is evidence that Part VIII of the Act has not been complied with, he shall make such further investigation as may be necessary to enable him to sign the accountant's certificate.

9. An accountant's certificate delivered by a practitioner under these Regulations shall be in the form set out in the Schedule. Form of certificate

10. The Council will in each practice year be satisfied that the delivery of an accountant's certificate is unnecessary, and shall not require evidence of that fact, in the case of any practitioner who—

(a) holds his first current practising certificate; or

(b) after having for twelve months or more ceased to hold a current practising certificate, holds his next current practising certificate; or

(c) holds a current practising certificate after having, in the declaration lodged by him with the Secretary to lead to the issue of that practising certificate, declared that either—

(i) Part VIII of the Act did not apply to him because he had not, during the period to which such declaration referred, practised on his own account either alone or in partnership or held or received client's money; or

(ii) he was exempt from complying with Part VIII of the Act by virtue of the

provisions of subsections (1) and (2) of section three of the Act, and had not, during the period to which such declaration referred, engaged in private practice; or

(d) has ceased to hold a current practising certificate and, if he has at any time after the 31st December, 1959, held or received client's money, has delivered an accountant's certificate covering an accounting period ending on the date upon which he ceased to hold or receive client's money; or

(e) has at no time since the 31st December, 1959, held a current practising certificate; or

(f) has at no time since the 31st December, 1959, held or received client's money. Delivery of certificate unnecessary

11. The accounting period specified in an accountant's certificate delivered during the practice year beginning on the 1st January, 1961, shall begin on-

(a) the date to which the practitioner's books were last made up before the 1st January, 1961; or

(b) if the books were not made up during the practice year beginning on the 1st January, 1960, either the 1st January, 1960, or the day upon which the practitioner first began or began again to hold or receive client's money, whichever be the later;

and shall cover not less than six months, or, in the case of a practitioner retiring from practice who has ceased to hold or receive client's money after the 31st December, 1959, the period up to the date upon which he so ceased. Transitional provisions

12. (1) In any practice year beginning on or after the 1st January, 1962-Special accounting periods

(a) in the case of a practitioner who-

(i) becomes under an obligation to deliver his first accountant's certificate; or

(ii) having been exempt under regulation 10 from delivering an accountant's certificate in the preceding practice year, becomes under an obligation to deliver an accountant's certificate;

the accounting period shall begin on the date upon which he first held or received client's money, or, after such exemption, began again to hold or receive client's money and may cover less than twelve months, and shall in all other respects comply with the requirements of sub-regulation (2) of regulation 3; and

(b) in the case of a practitioner retiring from practice who, having ceased to hold or receive client's money, is under an obligation to deliver his final accountant's certificate, the accounting period shall end on the date upon which he ceased to hold or receive client's money and may cover less than twelve months, and shall in all other respects comply with the requirements of sub-regulation (2) of regulation 3.

(2) In any practice year beginning on or after the 1st January, 1962, in the

case of a practitioner who-

(a) was not exempt under regulation 10 from delivering an accountant's certificate in the preceding practice year; and

(b) since the expiry of the accounting period covered by such accountant's certificate has become, or ceased to be a member of a firm of practitioners;

the accounting period may cover less than twelve months and shall in all other respects comply with the requirements of sub-regulation (2) of regulation 3.

(3) In the case of a practitioner who has two or more places of business-Branch or other offices

(a) separate accounting periods covered by separate accountant's certificates may be adopted in respect of each such place of business, provided that the accounting periods comply with the requirements of these Regulations; and

(b) the accountant's certificate or accountants' certificates delivered by him to the Secretary in each practice year shall cover all client's moneys held or received by him.

13. Every notice to be given by the Council under these Regulations to a practitioner shall be in writing under the hand of the Secretary and sent by registered post to the place of business or one or other of the places of business, as the case may be, set out in the last written declaration made by the practitioner to the Association in accordance with the provisions of section thirty-three of the Act, and, when so given and sent, shall be deemed to have been received by the practitioner within seven days of the time of posting. Notices to practitioners

14. Every notice to be given by the Council under these Regulations to an accountant shall be in writing under the hand of the Secretary and sent by registered post to the address of the accountant shown on an accountant's certificate or appearing in the records of the accountancy body of which the accountant is a member, and, when so given and sent, shall be deemed to have been received by the accountant within seven days of the time of posting. Notices to accountants

15. The Council shall have power to waive in writing any of the provisions of these Regulations other than those of sub-regulation (2) of regulation 7, in any particular case. Waiver

SCHEDULE

FORM OF ACCOUNTANT'S CERTIFICATE

(Regulation 9)

NOTE.-In the case of a firm with a number of partners, carbon copies of the certificate may be delivered provided section 1 below is completed on each certificate with the name of the individual practitioner.

1. Practitioner's full name

2. Firm(s) name(s) and address(es)

NOTE.-All addresses at which the practitioner(s) practise(s) must be covered by an accountant's certificate or certificates.

3. State whether practising alone or in partnership

4. Accounting period(s)

NOTE.-The period(s) must comply with the Legal Practitioners (Accountant's Certificate) Regulations.

In compliance with the Legal Practitioners (Accountant's Certificate) Regulations,

I, _____,
have examined the books, accounts and documents of the above-named practitioner or relating to the above practice(s) produced to me and I hereby certify that from my examination pursuant to regulation 8 of the said Regulations, and from the explanations and information given to me, I am satisfied that-

*(1) during the above-mentioned period(s) he has complied with the provisions of Part VIII of the Legal Practitioners Act except so far as concerns-

(a) certain trivial breaches due to clerical errors or mistake(s) in book-keeping, all of which were rectified on discovery; I am satisfied that none of such breaches resulted in any loss to any client;

(b) the matters set out on the back hereof;

*(2) having retired from active practice as a practitioner the said _____
ceased to hold client's
money on the _____.

Particulars of the Accountant:

Full name

Qualifications

Firm name

Address

Signature

Date

To the Secretary

The Law Association of Zambia

P.O. Box 34271

Lusaka

*Delete clause not applicable

SECTION 13-THE LEGAL PRACTITIONERS (APPLICATION FOR ADMISSION) RULES Statutory Instrument
145 of 1981

Rules by the Court Justice

1. These Rules may be cited as the Legal Practitioners (Application for Admission) Rules, and shall come into force simultaneously with the Legal Practitioners (Amendment) Act. Title and commencement

2. Every application for admission as a practitioner made under section thirteen of the Act shall be-

- (a) by petition in the form set out in the First Schedule hereto; and
- (b) supported by affidavit in the form set out in the Second Schedule hereto.

Form of application for admission

FIRST SCHEDULE

(Paragraph 2) 19 HP/LP

IN THE HIGH COURT FOR ZAMBIA AT THE PRINCIPAL REGISTRY, LUSAKA

IN THE MATTER OF: THE LEGAL PRACTITIONERS ACT, 1973

AND

IN THE MATTER OF: A PETITION BY
FOR ADMISSION AS A PRACTITIONER

TO: THE HONOURABLE CHIEF JUSTICE

PETITION

The humble Petition of
of
in the Republic of Zambia, showeth:

1. That your Petitioner prays to be admitted as Practitioner in accordance with the provisions of section 13 of the Legal Practitioners Act, 1973.
2. That your Petitioner was, upon satisfying the Council of Legal Education in that behalf, issued by the said Council of Legal Education with a certificate certifying him as having complied with the relevant provisions of section 11/section 12* of the Legal Practitioners Act, 1973.
3. That two persons have certified that your Petitioner is of good character.
4. That your Petitioner hereby undertakes as to requisite practical experience as required by the provisions of section 13, as read with section

13A, of the Legal Practitioners Act, 1973.

WHEREFORE your Petitioner humbly prays that he may be admitted as a Practitioner.

AND your Petitioner will, as in duty bound, ever pray.

DATED the day of 19

Signature of Petitioner

*Delete as appropriate.

SECOND SCHEDULE

(Paragraph 2) 19 HP/LP

IN THE HIGH COURT FOR ZAMBIA AT THE PRINCIPAL REGISTRY, LUSAKA

IN THE MATTER OF: THE LEGAL PRACTITIONERS ACT, 1973

AND

IN THE MATTER OF: A PETITION BY
FOR ADMISSION AS A PRACTITIONER

AFFIDAVIT

I,

MAKE OATH AND SAY as follows:

1. That my full names are as stated above.
2. That I am employed as
3. That I reside at
4. That my nationality is
5. That on the day of I filed a Petition
in the High Court for Zambia addressed to the Honourable the Chief Justice
seeking admission as a Practitioner.
6. That the facts as set out in the said Petition are true and correct.
7. That there is now produced and marked and exhibited
hereto a copy of a certificate under the hand of the Secretary of the Council of
Legal Education dated the day of
certifying me as having complied with the provisions of section 11/section 12*
of the Legal Practitioners Act, 1973.

8. That there is now produced and marked a document
under the hand of certifying as
to my good character.

9. That there is now produced and marked a document
under the hand of certifying as
to my good character.

SWORN by the said

at Lusaka this

day of

}BEFORE ME:

Commissioner for Oaths

*Delete as appropriate.

SECTION 70-THE PRACTITIONERS (CONVEYANCING AND NON-CONTENTIOUS MATTERS) (COSTS)
ORDER Statutory Instrument
169 of 1990
187 of 1990
Act
13 of 1994

Order by the Chief Justice

1. (1) This Order may be cited as the Practitioners (Conveyancing and Non-Contentious Matters) (Costs) Order. Title and application

(2) This Order shall apply in respect of any business done in any conveyancing or non-contentious matter after the publications of this Order. Scale of costs

2. Where in any conveyancing or non-contentious matter, costs are to be charged or allowed, such costs shall be in accordance with the scale of costs set out in the Schedule to this Order.

SCHEDULE
(Order 2)

PART I

SCALE OF PRACTITIONERS' COSTS APPLICABLE TO NON-CONTENTIOUS MATTERS AND CONVEYANCING NOT COVERED BY ANY OTHER SCALE

Fee
units

1. Attendance:

(a) Formal 30

(b) Including instructions for preparation of any formal document- such fee as may be reasonable taking into account the time, labour and responsibility involved minimum 150

(c) Others according to time at the rate per half hour or part thereof- minimum 79

(d) On receipt of letter, telegram or telex 15

(e) On despatch of telegram, telex or telefax 15

2. Copies: per page or part thereof 23

3. Drawing: per page or part thereof
. 23

4. Engrossing
23

5. Journeys:

At the rate of K3,000 per diem while travelling plus transport expenses. The amount to vary according to the importance of the subject matter requiring the journey e.g. a conveyancing matter involving property to the value of K1,000,000 would justify the fee of K10,000.

6. Letters:

(a) Per page or part thereof
23

(b) General Fee for letters, messengers, etc., allowable at the rate of K75 for each K750,00 of total bill excluding disbursement minimum
375

7. Opinion:

(a) Oral-minimum
120

(b) Written-minimum 240

(c) In other cases whether oral or written, such fee as may be reasonable taking into account the time and labour involved and the intricacy or otherwise of the questions advised upon-minimum 375

(d) Perusals: Persuals of any documents per page or part thereof
. 23

PART II

SCALE OF COSTS CHARGEABLE IN RESPECT OF CONVEYANCING MATTERS,
BUILDING SOCIETY MORTGAGES, DEEDS OF GIFT, DEBENTURES, SUPPLEMENTAL
DEBENTURES, FURTHER CHARGES, FLOATING CHARGES AND LOAN
AGREEMENTS

Scale

1. Where the consideration money or in
Purchaser,
the case of a gift, value
donee
Scale for vendor
mortgages donor and

Does not exceed K100,00 10% of the amount with a
minimum of K2,500

Exceeds K100,000 up to K1,000,000 10% of K100,000 plus 7.5%
Excess over K100,000 up to
K1,000,000

Excess over K1,000,000 5%

Fee
units

- 2. Application for State Consent (non-agricultural) including attendances
. .375
- 3. Application for State Consent (agricultural) including attendance s
. . .375
- 4. Renewal of State Consent
.225
- 5. For DR 53
.63
- 6. Presentation Fee
.63
- 7. Discharging Property Transfer Tax (including completing all necessary
forms)375
- 8. Obtaining Tax Clearance Certificate
.375
- 9. Letters, messengers etc. (excluding disbursements) 10% of the total
bill-
minimum375
- 10. For guarantee of Building Society or other mortgage including
presentation
fee375
- 11. Discharge of mortgage per property
.375

NOTE:

Where a practitioner represents both the parties to a mortgage the profit costs chargeable to the mortgage shall be halved.

PART IIA

Scale of Costs chargeable on upstamping of unlimited debenture.

One half of difference between costs of original advance and costs on maximum sum on upstamping.

PART III

SCALE OF COSTS CHARGEABLE ON LEASES AND UNDERLEASES AT A RACK RENT

Scale

When the amount of annual rent- Does not exceed K40,000.00					Lessor's scale 10% of the annual rent with a minimum of K2,500
Exceeds K40,000.00	. . . . .	. . . . .	. . . . .	. . . . .	10% of K40,000 plus 7.5% Excess over K40,000 up to K250,000
Excess K250,000.00	. . . . .	. . . . .	. . . . .	. . . . .	5%

NOTES:

1. Where a practitioner represents only the lessee, the lessee pays half the scale prescribed for the lessor.

2. Where a practitioner represents both the lessor and the lessee, the lessee pays a quarter of the scale prescribed for the lessor, excluding disbursements.

PART IV

SCALE OF COSTS CHARGEABLE ON THE ADMINISTRATION OF ESTATES OF DECEASED PERSONS

When deceased dies ordinarily resident in Zambia: on the gross world estate:
others: on gross Zambian estate.

					Scale
Up to K40,000	. . . . .	. . . . .	. . . . .	. . . . .	10% of the estate with a minimum of K7,500
Exceeds K40,000 up to K250,000	. . . . .	. . . . .	. . . . .	. . . . .	10% of K40,000 plus 7.5% on exceeds of K40,000 up to K250,000
Exceeds K250,000	. . . . .	. . . . .	. . . . .	. . . . .	5%

PART V

SCALE OF COSTS CHARGEABLE ON THE FORMATION OF COMPANY INCLUDING PREPARATION OF ALL STATUTORY BOOKS, STATUTORY MEETING AND INCREASE OF SHARE CAPITAL

Where the Scale Capital:					Scale
Does not exceed K40,000	. . . . .	. . . . .	. . . . .	. . . . .	10% of K40,000 plus 7.5% on excess of K40,000.00
Letters, messengers, printing etc.	10% of Share Capital (minimum (K2,500))				

PART VA

Scale of Costs chargeable on increase of capital.

One half of the difference between the costs of original formation and the

costs chargeable for formation of company on increased capital.

PART VI

COMMISSION CHARGEABLE ON RECOVERY OF DEBTS AND NEGOTIATED

Scale

Where the debt recovered or 10% of the debt of
consideration
consideration of contract does with a minimum of K2,500
not exceed K100,000

Exceeds K100,000 up to K1,000,000 10% of K100,000 plus 7.5%
on excess of 1,000,000 to
K1,00,0000

Excess of K1,000,000 5%

(As amended by S.I. No. 169 of 1990, No. 187 of 1990 and Act No. 13 of 1994)

SECTION 87-THE LEGAL PRACTITIONERS (BRANCH OFFICES) REGULATIONS

Regulations made by the Disciplinary Committee, with the concurrence of the Chief Justice
Government Notes
91 of 1960

1. These Regulations may be cited as the Legal Practitioners (Branch Offices) Regulations.
Title

2. No practitioner or firm of practitioners shall have or maintain any branch office for the purpose of carrying on the business and profession of practitioner save and only when such branch office shall at all times when open be under the direct and personal supervision of at least one practitioner who has in force a practising certificate.
Control of branch offices

SECTION 86-THE LEGAL PRACTITIONERS (PRACTISING CERTIFICATE) RULES

Rules by the Chief Justice
Government Notices
106 of 1957
497 of 1964
Act 13 of 1994

1. These Rules may be cited as the Legal Practitioners (Practising Certificate) Rules.
Title

2. The form set out in the Schedule and therein referred to as Form L.P.1, is hereby prescribed as the form of written declaration to be made by every practitioner when applying for a practising certificate. This form shall be used for this purpose with such modifications as the circumstances may require.
Written declaration

3. The form set out in the Schedule and therein referred to as Form L.P.2, shall be the form of practising certificate to be issued, with such modifications as may be necessary under the terms of the Act and any amendment thereof.
Practising certificate

SCHEDULE

PRESCRIBED FORMS

FORM L.P.1

(Rule 2)

DECLARATION FOR OBTAINING PRACTISING CERTIFICATE

I,
hereby declare as follows, that is to say:

1. (a) I was admitted a Solicitor of the Supreme Court in the month
of in the year and my
place(s) of business
is/are as follows(i)

(b) I was called to the Bar by the Honourable Society of
at in the month of in the year
and
my place(s) of business is/are as follows(i)

(c) I was admitted to practise as a Barrister and Solicitor in Zambia
on the day of 19Name as it appears on the
Roll.

Please use block capitals.

See Note (i)

2. I practise in (ii):

Private practice:

(a) on my own account;

(b) as an Assistant Solicitor.

Commerce, Industry or a Nationalised Undertaking.

Whole-time Local Government Service:

(a) Clerk;

(b) Deputy Clerk;

(c) Assistant Solicitor.

Whole-time Government Service.

Other whole-time employment asSee Note (ii)

3. (iii) The provisions of section *34 of the Legal Practitioners Act do
not apply to me.

or

(iii) The provisions of section *34 of the Legal Practitioners Act apply to me and I have duly given the notice required by that section.

Dated this day of , 19

.....(Signature)See Note (iii)

See overleaf

To the Law Society of Zambia.

NOTES: (i) All places of business, if more than one, must be stated. If any changes have taken place since last practising certificate particulars should be given.

(ii) Indicate as appropriate or insert any additional description which may be necessary.

(iii) Strike out whichever of the two alternative paragraphs does not apply.

SECTION 34, LEGAL PRACTITIONERS ACT

(1) In any of the following cases, that is to say, where a practitioner applies for a practising certificate:

(a) when for twelve months or more he has ceased to hold a current practising certificate; or

(b) whilst he is an undischarged bankrupt or a receiving order in bankruptcy is in force against him; or

(c) when, having been suspended from practice or having had his name struck off the Roll, the period of his suspension has expired, or his name has been restored to the Roll, as the case may be; or

(d) not having held a practising certificate within the twelve months next following the date of his admission to the Roll; or

(e) whilst he is a person in respect of whom an adjudication order under the Mental Disorders Act is in force; or

(f) without having paid a penalty or costs ordered by the Disciplinary Committee under this Act to be paid by him; or

(g) after he has been invited by the Council to give an explanation in respect of any matter affecting his conduct and has failed to give to the Council an explanation in respect of that matter which the Council regard as

sufficient and satisfactory, and has been notified in writing by the Council that he has so failed; or

(h) after having had an order made against him for the issue of a writ of attachment;

or

(i) after having been adjudicated a bankrupt and obtained his discharge or after having entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors; or

(j) after having had given against him any judgment which involves the payment of moneys, other than costs, and is not a judgment as to the whole effect of which upon him he is entitled to indemnity or relief from any other person and without having produced to the Society evidence of the satisfaction of such judgment;

he must, unless the Society or the Chief Justice otherwise orders, give to the Society at least six weeks before the application is made, notice of his intention to make the application, and the Society may in its discretion grant or refuse the application, or decide to issue a certificate to the applicant, subject to such terms and conditions as the Society may in its discretion think fit and in the last-mentioned case may, if it thinks fit, postpone the issue of the certificate pending the hearing and determination of an appeal under this section:

Provided that-

(i) in the event of an appeal having been made to the appropriate court in case (b) against the receiving order or in case (h) against the order for the issue of a writ of attachment or in case (j) against the judgment, the Society shall not refuse the application during the pendency of such appeal unless in its opinion the proceedings on such appeal have been unduly protracted by the appellant or are unlikely to be successful; and

(ii) where, having regard to certain facts, a discretion becomes exercisable by the Society in any of the cases (a), (c), (d), (g), (h), (i) and (j), as soon thereafter as a practising certificate has been issued in the exercise of such discretion to the applicant free of conditions, those facts shall cease to operate so as to require such solicitor to give the notice mentioned in this section or to vest any discretion in the Society.

(2) Within one month after being notified of the decision of the Society the applicant may appeal against such decision to the Chief Justice who may affirm the decision of the Society or may direct it to issue a certificate to the applicant on such terms and conditions as the Chief Justice may think fit or free from terms and conditions or not to issue a certificate or, if a certificate has been issued, may by order suspend such certificate until such certificate expires or the suspension is terminated by order of the Society or the Chief Justice or may make such other order as he may think fit.

FORM L.P.2
(Rule 3)
19

PRACTISING CERTIFICATE

No.

PURSUANT to the Legal Practitioners Act, THE LAW SOCIETY, as the Registrar of Solicitors, HEREBY CERTIFIES

THAT

a Practitioner as defined by the Legal Practitioners Act, whose Place(s) of business is/are at

has left with the said Society a Declaration in Writing pursuant to the said Act, and hereby further certifies that the said Practitioner is duly enrolled a Practitioner, and is entitled to practise as a Barrister and Solicitor.

GIVEN under the hand of the Secretary of THE LAW SOCIETY this day of, 19

.....
Hon. Secretary

REGISTRAR'S FEE.

Compensation Fund
Contribution. Fee units
200

200

400

(As amended by Act No. 13 of 1994)

SECTION 19-THE LEGAL PRACTITIONERS (DISCIPLINARY PROCEEDINGS) (PRACTITIONERS' CLERKS) RULES

Rules made by the Disciplinary Committee, with the concurrence of the Chief JusticeGovernment Notices

1 of 1959

497 of 1964

1. These Rules may be cited as the Legal Practitioners (Disciplinary Proceedings) (Practitioners' Clerks) Rules. Title

2. (1) In these Rules, unless the context otherwise requires-

"practitioner's clerk" means a person who is or has been a clerk to a practitioner.

Interpretation

(2) Wherever, in these Rules, reference is made to a case where a practitioner's clerk is employed by a practitioner, such reference shall be deemed to extend to a case where a practitioner's clerk is employed by a firm of practitioners of which the practitioner is a member.

(3) Any expression not herein defined shall have the meaning assigned to it in the Legal Practitioners (Disciplinary Proceedings) Rules and in the Act.

3. (1) An application to the Disciplinary Committee made under section thirty (1) of the Act shall be in writing by or on behalf of the Society in Form 1 of the Schedule and shall be sent to the Secretary to the Disciplinary Committee, together with an affidavit in Form 2 of the Schedule, stating the matters of fact on which the Society relies, in support of the application. Application to Disciplinary Committee

(2) The application may be signed and the affidavit sworn by the Secretary of the Society, or by such other person as may, from time to time, be authorised by the Council.

4. The parties to the proceedings under section thirty of the Act shall be-

(a) the Society;

(b) the practitioner's clerk; and

(c) if the Disciplinary Committee so direct, any practitioner by whom the practitioner's clerk was employed either-

(i) at the time of the commission of any such offence as is mentioned in section thirty (1) (a) of the Act, of which it is alleged by the applicant that the practitioner's clerk has been convicted; or

(ii) at the time of any such act or default as is mentioned in section thirty (1) (b) of the Act, to which it is alleged that the practitioner's clerk has been a party. Parties to proceedings

5. The Disciplinary Committee may, on the application of any party to

proceedings under section thirty of the Act or on its own motion, order that any application made under section thirty of the Act shall be heard prior to, in the course of, concurrently with, or subsequent to the hearing of an application made under section eighteen (1) (b) of the Act relating to a practitioner by whom the practitioner's clerk is or was employed. Priority of hearings

6. Rules 4 to 11 inclusive, and 19 to 32 inclusive of the Legal Practitioners (Disciplinary Proceedings) Rules shall apply, mutatis mutandis, to all applications made under section thirty of the Act. Application of rules

SCHEDULE

PRESCRIBED FORMS

FORM 1

(Rule 3)

FORM OF APPLICATION IN RESPECT OF A PRACTITIONER'S CLERK

To: The Secretary to the Disciplinary Committee constituted under the Legal Practitioners Act.

In the matter of E.F., a Practitioner's Clerk,

and

In the matter of the Legal Practitioners Act.

I, the undersigned A.B., of hereby make application on behalf of the Law Society of Zambia that an order be made by the Disciplinary Committee directing that as from a date to be specified in such order no practitioner shall in connection with his practice as a practitioner take or retain E.F. of a person who is or was a clerk to a practitioner into or in his employment or remunerate the said E.F. without the written permission of the Law Society of Zambia or that such order may be made as the Disciplinary Committee shall think right.

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

Signature.....

SECTION 70-THE LEGAL PRACTITIONERS (HIGH COURT) (FIXED COSTS) ORDER

Order by the Rules Committee Statutory Instrument 171 of 1990 Act No. 13 of 1994

- 1. (1) This Order may be cited as the Legal Practitioners (High Court) (Fixed Costs) Order. Title and application (2) This Order shall apply in respect of proceedings pending on the date of this Order or commenced after the publication of this Order. 2. In proceedings in the High Court, where costs are allowed, such costs shall be taxed at the fixed rates set out in the Schedule to this Order. High Court fixed costs

LEGAL PRACTITIONERS ACT

PART I

THE AMOUNT OF COSTS ENDORSED ON A WRIT OF SUMMONS

UNDERORDER

VI RULE 10

Note:

(i) Court fees and other disbursements are not included in these fees.

(ii) Every reference to a page means a page of A4 size.

1.	When the amount claimed is less than 75 fee units-no costs unless Fee						
Units	allowed by the Registrar and if allowed then in accordance with items 2 and 3.						
2.	When the amount does not exceed 150 fee units	..	..	..	..
33							
3.	For each additional defendant	..	..	..	..	..	..
5							
4.	When the amount claimed is over 150 fee units	..	..	..	..
60							
5.	For each additional defendant	..	..	..	..	..	8

(As amended by Act No. 13 of 1994)

THE STUDENTS RULES

ARRANGEMENT OF RULES

PART I

PRELIMINARY

Rule

1. Title
2. Interpretation
3. Condition precedent to qualification for admission as a practitioner

PART II

ENROLMENT

4. Enrolment of students
5. Educational qualification for enrolment

6. Prerequisite to enrolment
7. Re-enrolment
8. Particulars on Roll of Students

PART III

ARTICLES OF CLERKSHIP

9. Practitioners may take two persons into articles
10. Term of articles
11. Articled clerk to be employed continuously by employer
12. Irregular service under articles
13. Student not to take other employment except with consent
14. Council may disregard irregularities of service under articles
15. New or further articles necessary in certain cases
16. Change of name by student

PART IV

A. Examinations: General

17. Prescribed fees
18. Notice
19. Conduct of examinations
20. Results of examinations

Rule

21. Exemption
22. Syllabus

B. The Legal Practitioners Qualifying Examination

23. Heads of examination

C. The Prescribed Examination

24. Parts and Heads of examination

PART V

GENERAL

25. Universities approved under section 11 A(a)

26. Complaints as to conduct of students and former students

27. (Spent)

28. Cases not specifically provided for

29. Variation from prescribed forms

30. Papers to be lodged with secretary

31. Abridgement of time

FIRST SCHEDULE-Prescribed forms

SECOND SCHEDULE-Term of articles

THIRD SCHEDULE-Prescribed fees

FOURTH SCHEDULE-Approved universities

SECTION 8-THE STUDENTS RULES

Rules made by the Council of Legal Education, with the approval of the Minister
Statutory Instruments

205 of 1973

88 of 1974

185 of 1974

182 of 1976

49 of 1977

148 of 1977

102 of 1978

233 of 1979

149 of 1980

138 of 1981

90 of 1985

Act No.

13 of 1994

PART I

PRELIMINARY

1. These Rules may be cited as the Students Rules. Title
2. In these Rules, unless the context otherwise requires- Interpretation
 - (a) "the Council" means the Council of Legal Education established under section seven;"prescribed examination" has the meaning assigned to it in section twelve (2)
 - (b);"principal" means a person qualified to take a student into articles under the Act;"secretary" means the secretary to the Council of Legal Education appointed under section seven (7);"section" means section of the Act;"student" means any person enrolled with the Council of Zambia Institute of Advanced Legal Education under these Rules;
 - (b) "a form referred to by number" means the form so numbered in the First Schedule.
3. Subject to the provisions of the Act, any person wishing to qualify to be admitted as a practitioner under the Act shall comply with the provisions of these Rules. Condition precedent to qualification for admission as a practitioner

PART II

ENROLMENT

4. (1) There shall be established a Roll of Students upon which shall be entered the names of all persons enrolled as students by the Council under these Rules. Upon enrolment the Council shall issue to a student a certificate of enrolment on Form 1. Enrolment of students
 - (2) No enrolment shall be considered to be effective for the purposes of these Rules unless-
 - (a) in the case of a student who is intending to attend a course at the Zambia Institute of Advanced Legal Education under section eleven A (b) (i), the date of such enrolment is prior to or within six months from the commencement of his attendance thereat; or
 - (b) in the case of a student who is required to serve in the Republic as an articulated clerk under articles of clerkship to a practitioner under section eleven A (b) (ii) or section twelve, the date of such enrolment is prior to or within six months from the commencement of such articles; or
 - (c) in the case of a student to whom section eleven B (b) (i) (II) or section eleven B (b) (ii) (II) applies, the date of such enrolment is prior to or within six months from the commencement of his period of active employment thereunder;

Provided that where before the commencement of these Rules a person had already commenced any of the activities as are mentioned in this sub-rule, his

subsequent enrolment shall be considered to be effective for the purposes of these Rules.

(As amended by No. 88 of 1974)

5. Before the issue to him of a certificate of enrolment as a student, a person shall satisfy the Council that he-

(a) is a qualified lawyer (by whatever name called) in any State;

(b) has obtained or is in a position to supplicate for a degree from a university recognised by the Council;

(c) is qualified for entry into the School of Law of the University of Zambia;

(d) possesses educational qualifications which in any particular case the Council considers to be at least equivalent to the qualification referred to in paragraph (c). Educational qualification for enrolment

Provided that the Council may exercise its discretion in considering applications for enrolment as students for the purpose of writing the prescribed examination for the Legal Practitioners Qualifying Examination notwithstanding that the applicant possesses the requisite qualifications under these Rules.

(As amended by S.I. No. 185 of 1974 and No. 149 of 1980)

6. (1) Before being enrolled as a student a person shall in the manner provided by this rule satisfy the Council as to his character, fitness and suitability to be a student.

(2) Not less than six weeks before he may be enrolled as a student he shall give notice to the Council of his desire to do so and shall lodge with the Council notice on Form 2.

(3) Before a certificate of enrolment as a student is issued the Council may, if it thinks fit, require him to attend personally before the Council for an interview and to furnish such additional evidence as to his character, fitness and suitability to be a student as the Council may consider necessary.

(4) If the qualifications laid down in these Rules have been satisfied the Council shall notify the applicant in writing of its consent to his enrolment and, upon payment by him to the Council of the sum of one hundred fee units, the Council shall issue to him a certificate of enrolment on Form 1.

(5) Any applicant who is dissatisfied by a decision of the Council under this rule may, within four weeks from the communication of such decision to him, appeal therefrom to the High Court and thereafter to the Supreme Court of Zambia.

(As amended by S.I. No. 90 of 1985 and Act No. 13 of 1994) Prerequisite to enrolment

7. A person who having obtained a certificate of enrolment under these Rules does not-Re-enrolment

(a) commence his period of service under articles within two years of the

date of such certificate of enrolment; or

(b) commence his attendance at a course at the Zambia Institute of Advanced Legal Education within two years of the date of such certificate of enrolment; or

(c) commence his period of active employment with a practitioner within two years of the date of such certificate of enrolment;

as the case may be, shall, if he then seeks to commence any such activities, be required to re-enrol as a student with the Council under these Rules.

8. Upon enrolment of a student the Council shall record the name, date of birth, nationality, place of permanent residence and postal address of the student together with a reference to the relevant provisions of the Act under which he is enrolled and the name of principal, if any, with whom he is to serve his articles or his period of active employment, as the case may be. Particulars on Roll of Students

PART III

ARTICLES OF CLERKSHIP

This Part shall apply to all students entering into articles under section eleven A (b) (ii) or section twelve.

9. A practitioner of the prescribed standing who has in force a current practising certificate, may take into articles not more than two persons at any one time. Practitioners may take two persons into articles

10. (1) For the purposes of section twelve (2) (a) the prescribed periods of service under articles shall be those set out in the Second Schedule. Term of articles

(2) All articles shall contain, inter alia, the names and addresses of the student and the principal with whom he has entered into articles and any other parties thereto, the term thereof and the date upon which the articles commenced, and such articles shall be produced to the Council, which shall, on being satisfied that the articles comply with the provisions of the Act and of these Rules, file the duplicate submitted under sub-rule (5) or rule 15 (5) in a register kept for the purpose and enter thereon the date of such filing.

(3) The term of service under articles shall begin upon the date of the execution of the articles or upon such later date as may be specified by the articles:

Provided that if any articles are not produced to the Council for registration within three months from the date thereof service thereunder shall, unless the Council otherwise directs, be deemed to have commenced upon the date of the production of such articles.

(4) Service under articles of which registration has been refused under this rule shall not be deemed to be good service.

(5) When a student produces his articles for registration he shall lodge with the Council-

(a) the articles, together with a duplicate thereof which shall be retained by the Council;

(b) his certificate of enrolment as a student in accordance with the provisions of these Rules;

(c) in the event of the articles being for a term of less than five years, evidence acceptable to the Council showing why the term should be less than five years.

11. (1) Subject to the provisions of these Rules, every student shall, during the whole term of his articles, be actually employed in the proper business, practice and employment of a legal practitioner by the principal to whom he is articled. Articled clerk to be employed continuously by employer

(2) For the purposes of this rule, the following periods shall be reckoned as if they were periods of employment with the principal to whom the student is articled and as good service under articles, that is to say:

(a) where the term of articles is three years or more, with the permission of his principal, a period not exceeding one year of employment in the proper business, practice and employment with another principal;

(b) where the term of articles is three years or more, a period not exceeding six months during the last nine months of the term of articles during which period the student may be absent from that principal's office to prepare for Part II of the prescribed examination or the Legal Practitioners Qualifying Examination;

(c) where the term of articles is five years-

(i) a period of attendance at any course of instruction in Law approved by the Council;

(ii) during the first three years of such term, with the permission of the principal, periods of absence from that principal's office to enable the student to study for an external degree, and a period not exceeding four months during which periods the student may be absent from that principal's office to prepare for any examination required under the Act;

(d) such period or periods as the Council may in its discretion permit to be so reckoned.

12. Where a student has entered into articles for a term of five years and more than one-half of the term of articles has expired before he has passed Part I of the prescribed examination, or has been granted total exemption therefrom, then, unless the Council otherwise directs, no further service under articles may be reckoned as good service under articles until such time as he shall have passed Part I of the prescribed examination or have been granted total exemption therefrom. Irregular service under articles

13. (1) Subject to the provisions of these Rules, no student shall during the term of his articles hold any office or engage in any employment other than the employment of the principal with whom he has entered into articles, or of a

partner of that principal or of another principal pursuant to rule 11 (2) (a), in the proper practice and employment of a legal practitioner, and no period during which he has held any such other office or engaged in any such other employment may, unless the Council otherwise directs, be reckoned as good service under articles. Student not to take other employment except with consent

(2) This rule shall not apply to any student who, before he enters upon or engages in any office or employment, has obtained the written consent of the principal with whom he has entered into articles and of the Council.

(3) Any direction made by the Council under sub-rule (1) or any consent given by the Council under sub-rule (2) may be made or given subject to such terms and conditions as the Council may think fit, and any such consent may be withdrawn or the conditions thereof varied at any time.

(4) A student seeking the direction or consent of the Council under this rule shall give written notice to the Council and shall lodge therewith-

(a) an application on Form 3 duly completed by the applicant personally; and

(b) the written consent of the principal under sub-rule (2).

14. (1) Where a student has not served under his articles in accordance with the provisions of these Rules but has, after the execution of his articles, bona fide served, whether continuously or not, one or more principals for periods equal in the aggregate to the full term for which he was originally articulated, the Council may, if it is satisfied that the irregularity of the service was occasioned by accident, mistake or other sufficient cause whatsoever and that the service though irregular was substantially equivalent to service in accordance with the provisions of these Rules, allow the student to reckon the service as if it had been good service. Council may disregard irregularities of service under articles

(2) An applicant seeking to be allowed to reckon service as good service in accordance with this rule shall submit to the Council an application on Form 4 duly completed by the applicant personally.

15. (1) Where before the expiration of the term for which a student is articulated the principal to whom he is articulated ceases to practise as a legal practitioner, or dies, or the articles are cancelled by mutual consent or are otherwise terminated before the expiry of the period for which they were limited to endure, the student may enter into new articles with another principal for the residue of the said term and service under such articles in accordance with the provisions of these Rules shall be good service: New or further articles necessary in certain cases

Provided that where articles have been discharged, service by the student under any new or further articles may only be reckoned as good service when he has registered his new articles with the Council in accordance with the procedure set out in rule 10.

(2) (a) Where the principal to whom a student is articulated dies before the expiration of the term for which a student is articulated and the student enters into new articles, the Council may, if it is satisfied that there has been no undue delay before the student has entered into new articles and that during the period between the date of the death of the principal and the date of the entry by the student into new articles the student has bona fide served a principal in

such a way as could, had the student entered into articles with such principal, have been reckoned as good service under articles, allow the student to reckon such period of service as good service under articles.

(b) A student who applies to be allowed to reckon such service as good service under articles shall lodge with the secretary an application on Form 4.

(3) Where on the expiration of the term for which a student is articulated he cannot satisfy the Council that he has duly served under articles for the whole of the term of his articles, he may enter into further articles with the same or another principal for such period as will enable him to complete the requisite term of service under articles.

(4) If a student does not enter into new articles within two years of the cancellation or discharge of his articles, or if he does not enter into further articles within two years of the expiration of his original or any new articles, his certificate of enrolment shall be of no effect and he shall be required to re-enrol as a student with the Council before entering into new or further articles, and such new or further articles shall be for such term, not exceeding the term of his original articles, as the Council may think fit.

(5) When a student produces new or further articles for registration he shall lodge with the secretary-

(a) his new or further articles, together with a duplicate copy thereof which shall be retained by the Council;

(b) a valid certificate of enrolment as a student with the Council.

16. A student who applies to the Council that his name may be changed on the Roll established under rule 4 (1) or the register referred to in rule 10 (2) shall lodge with the secretary such evidence of the change as the Council may require. Change of name by student

PART IV

A. Examinations: General

17. Any student applying to be examined or re-examined at any examination referred to in the Act shall pay to the Council in respect of such examination the fees prescribed in the Third Schedule. Prescribed fees

18. Any student wishing to sit for an examination referred to in section B or C of this Part shall, at least four weeks prior to the date of the examination notified by the Council under rule 23 (5) or 24 (7), give notice thereof to the Council on Form 5 and shall forward the prescribed fees with such notice. Notice

19. The prescribed examination and the Legal Practitioners Qualifying Examination shall be conducted in accordance with sections B and C of this Part and any instruction which the Council may from time to time issue in that behalf. Conduct of examinations

20. The decision of the Council as to whether a student has or has not passed any examination held under these Rules and as to the standard which he has attained shall be final. Any script written by a student for the purpose of any such examination shall be the property of the Council, and a student shall not

be entitled subsequently to see such script or to have it returned to him. Results of examinations

21. Any application for exemption from any Head of the Legal Practitioners Qualifying Examination or the prescribed examination shall be made on Form 6 and shall be made not later than the latest date for entry for such examination. Exemption

22. The Council shall from time to time issue detailed syllabi of the Legal Practitioners Qualifying Examination and the prescribed examination. Syllabus

B. The Legal Practitioners Qualifying Examination

23. (1) The Legal Practitioners Qualifying Examination shall comprise the following Heads:

Professional Conduct and Ethics

Bookkeeping and Accounts

Conveyancing and Legal Drafting

Probate and Succession

Commercial Transactions

Company Law

Civil Procedure

Domestic Relations

Criminal Law and Procedure

Evidence Heads of examination

(2) The examination shall consist of written papers in each of the Heads of the examination and students shall be permitted access to such books and legislation as the Council may from time to time direct.

(3) Each candidate shall be required to pass in each Head of the examination except in so far as he may have been granted exemption from any Head thereof under the Act.

(4) Subject to the provisions of these Rules, a student who has already passed in any four Heads of the examination at one sitting may complete the examination by passing in not less than two of the remaining Heads or the last remaining Head, at any subsequent sitting:

Provided that, except with the permission of the Council granted as a result of his petition, a student who has thrice taken or retaken the examination or any part thereof, and failed to complete it, shall not be allowed, within five years of his last attempt, to retake the examination or any Head thereof.

(5) The examination shall be held twice in each calendar year on such dates and at such time and place as the Council may from time to time direct.

(6) No person may enter for the Legal Practitioners Qualifying Examination or any Head or Heads thereof unless he is enrolled as a student under these Rules:

Provided that-

(i) where a person enrolled as a student under these Rules and is required under the provisions of section twelve of the Act to pass the prescribed examination, he shall not be eligible to write any part of the Legal Practitioners Qualifying Examination until after he has successfully completed the prescribed examination;

(ii) nothing in this rule shall disqualify a practitioner, who has, before being admitted to be a practitioner, given to the Chief Justice an undertaking in writing that he will not, before he has passed the prescribed accounts examination, perform within Zambia any of the functions which in England are performed by a solicitor and are not performed by a barrister, from entering for the Legal Practitioners Qualifying Examination in Bookkeeping and Accounts.

(As amended by No. 88 of 1974, No. 182 of 1976, No. 148 of 1977, No. 102 of 1978, No. 149 of 1980 and No. 138 of 1984)

C. The Prescribed Examination

24. (1) The prescribed examination shall consist of two Parts divided into the Heads set out in sub-rules (2) and (3):

Provided always that, subject to the provisions of the Act, the Council may in any particular case, direct that the prescribed examination shall consist of any lesser number of Parts or Heads.

(2) Part I of the Examination shall comprise the following Heads:

Contract

Tort

Criminal Law and Evidence

Constitutional Law

(3) Part II of the Examination shall comprise the following Heads:

Commercial Law

Land Law

Administrative Law

Jurisprudence

(4) No person may sit for the prescribed examination unless he is enrolled as a student and has entered into articles under these Rules. Parts and Heads of examination

(5) No student may present himself for Part II of the prescribed examination until he shall have sat in all Heads of Part I of the examination, and shall have passed in at least three Heads thereof:

Provided that, except with the permission of the Council granted as a result of his petition, a student who has thrice sat for any Head of the prescribed examination and not passed in it, shall not be allowed, within five years of his last attempt, to resit for that Head.

(6) The examination shall consist of written papers in each of the Heads of the examination and students shall be permitted access to such books and legislation as the Council may from time to time direct.

(7) The examination shall be held twice in each calendar year on such dates and at such time and place as the Council may from time to time direct.

(As amended by S.I. No. 233 of 1979 and No. 138 of 1981)

PART V

GENERAL

25. The Universities contained in the Fourth Schedule have been approved by the Council for the purposes of section eleven A (a). Universities approved under section 11 A (a)

26. (1) If any complaint is made to the Council as to the conduct of any student or of any person who, having been enrolled as a student but whose certificate of enrolment is considered under these Rules to be of no effect and who applies to be re-enrolled (in this rule referred to as a "former student") the Council may, after giving to the student or former student an opportunity to be heard upon such complaint, and if it finds the complaint to have been established-Complaints as to conduct of students and former students

(a) admonish the student or former student and cause an entry of such admonishment to be made against his name upon the Roll;

(b) refuse to register the articles or further articles of the student or former student, as the case may be;

(c) postpone the date upon which the student or former student may sit for any examination or any Head or Part thereof provided for in these Rules;

(d) refuse to re-enrol the former student;

(e) revoke the certificate of enrolment of the student.

(2) Any complaint to the Council shall be made to the secretary who shall refer such complaint to the Council unless he considers it to be frivolous.

27. (Spent)

28. In any case not specifically provided for by these Rules, an applicant to the Council shall make application on Form 4 setting out the nature of his application and the facts upon which he relies in support thereof. He may be required to verify these facts by affidavit or statutory declaration and to adduce such further evidence as may be deemed necessary. Cases not specifically provided for

29. The forms prescribed by these Rules shall be adhered to as closely as possible, but may be adapted to deal with special circumstances affecting any case. Variation from prescribed forms

30. All papers to be lodged with the Council shall be so lodged with the secretary. Papers to be lodged with secretary

31. Subject to the provisions of the Act, the Chairman of the Council may, at his discretion, in any particular case, extend or abridge any times laid down by these Rules. Abridgement of time

FIRST SCHEDULE

PRESCRIBED FORMS

(Rule 2 (b))

FORM 1
(Rules 4 and 6)

CERTIFICATE OF ENROLMENT

No.
Name
Nationality
Country of Residence
Date of Birth
Postal Address

has this day been enrolled as a Student pursuant to the provisions of section
of the
Legal Practitioners Act.

....., 19..... .

.....(signed)

Secretary to the
Council of Legal Education

FORM 2
(Rule 6 (2))

NOTICE OF INTENTION TO ENROL AS A STUDENT

To: The Secretary
The Council of Legal Education
P.O. Box 50067
Lusaka

I, (a) (BLOCK CAPITALS)
of (b)
being a by Nationality
and my country of permanent residence being
hereby give notice that after six weeks from the date hereof I desire to enrol
with the Council as a student.

I was born on the day of 19....., and send
herewith a duly
certified copy of my birth certificate, or an affidavit of birth.

I was educated at (c)

during the years

(d)
of and
(d) of

will vouch as to my character and as to my fitness and suitability to be
enrolled as a student.

I produce the following evidence of having attained the requisite standard of
education, namely:

Present Employment

(e) (i) Name of employer

(ii) Address

(iii) Post held

(iv) Nature of work

(v) Date of employment started

(f) (i) Have you ever been convicted of a criminal offence?

(ii) Is any criminal charge pending against you?

(iii) Have you ever had a civil judgment entered against you?

(iv) Is any civil case pending against you now?

(If the answer to any question is "Yes" give details.):

I declare that I have answered the above questions truthfully and exactly and that I am not aware of any circumstances not disclosed in these answers which, if known, might raise doubts as to my fitness for enrolment as a student. I understand that if I am enrolled as a student and this declaration or any of the particulars furnished by me are subsequently found to be false within my own knowledge, my enrolment may be cancelled.

I accordingly apply for the issue to me of a certificate of enrolment as a student.

Dated this day of
19

(Signed)

.....

Key:

(a) Full name of applicant.

(b) Postal address.

(c) Name(s) and address(es) of school(s), and university (if any) and other educational establishment(s) (if any) attended.

(d) Names, addresses and occupation of referees should preferably be:

(i) if the applicant has within three years immediately preceding his application attended an educational establishment, a responsible official of the establishment; or

(ii) a clergyman, legal practitioner, medical practitioner or other person of known standing.

(As amended by S.I. No. 149 of 1980)

FORM 3
(Rule 13 (4) (a))

APPLICATION TO HOLD OFFICE WHILST UNDER ARTICLES

To: The Secretary
The Council of Legal Education
P.O. Box 50067
Lusaka

I, (BLOCK CAPITALS)
of
whose certificate of enrolment number is hereby apply that the permission
of Council may be given to my engaging in an office or employment other than the
employment of the practitioner to whom I was articulated.

2. I was articulated on the day of , 19..... .
to Mr of
.....
..... for a
term of years from the day of
..... ,
19....., and I desire to engage in the office or employment of
by
.....
.....
in respect of the following periods, that is to say:

3. My salary in respect of such office or employment will be K per
annum.

4. The work will be of the following nature, that is to say
and the average time to be spent by me thereon in each week will be
approximately hours.

(Signed)
.....

(Date)
.....

FORM 4

(Rule 14 (2))

(Rule 15 (2) (b))

(Rule 28)

GENERAL FORM OF APPLICATION

To: The Secretary
The Council of Legal Education
P.O. Box 50067
Lusaka

I, (a) (BLOCK CAPITALS)
of (b)
whose certificate of enrolment number is hereby apply to the Council
under rule (c) of the Students Rules. I make the following
application (d)

(e)

I solemnly and sincerely declare that the facts set out herein are true.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1835, of the United Kingdom.

Declared, etc.,

(a) Full name of applicant.

(b) Address.

(c) Refer to the rules or rule under which the application is made.

(d) State briefly the nature of the application.

(e) State concisely in numbered paragraphs the facts on which reliance is placed in support of the application.

FORM 5
(Rule 18)

NOTICE OF INTENTION TO SIT FOR AN EXAMINATION

To: The Secretary
The Council of Legal Education
P.O. Box 50067
Lusaka

PART 1

I, (BLOCK CAPITALS)
of
hereby give notice of my desire to sit for the following Parts and Heads of the
Examination to be held in, 19.....
Part . Heads I enclose herewith fee
units
in payment of the prescribed fees. My certificate of enrolment number is
dated, 19.....

I am enrolled under the provisions of section of the Legal
Practitioners
Act.

I desire that notices in relation to the examination be sent to me at
(signed), 19.....

PART 2-[To be completed by students enrolled under sections 11 A (b) (iii) and
12 of the Legal Practitioners Act]

I commenced service under articles on .

I have been absent from my principal's office during the period of my
articles for the following periods with/without consent of my principal for the
reasons given:

(An absence due to ill-health for more than one month must be supported by a medical certificate.)

I have/have not engaged in other employment (if you have, give details and any consents obtained)

(Signed).....

Student

The above-named student has worked satisfactorily as an Articled Clerk and has shown himself to be a fit and proper person to be admitted as a practitioner.

(Signed).....

Date

Principal

PART 3-[To be completed by students enrolled under section 11 B of the Legal Practitioners Act in active employment in the office of practitioner]

I commenced my period of active employment with Mr
on.....

I have not been absent from my principal's office during my period of active employment except for the periods stated

(An absence due to ill-health for more than one month must be supported by a medical certificate.)

I have not been engaged in other employment .

(Signed).....

Student

The above-named student has worked satisfactorily during his period of active employment with me and is a fit and proper person to be admitted as a

practitioner.

(Signed).....
Date

Principal

PART 4-[To be completed by students who have attended at the Law Practice Institute under section 11 A (b) (i) or 11 B (b) of the Legal Practitioners Act]

I commenced my attendance at the Law Practice Institute on
and completed the course on

(Signed).....
Student

I certify that the above-mentioned student has duly fulfilled the requirements of the course which he has attended during the year 19.....

(Signed).....

Director of the Zambia Institute of
Advanced Legal Education

Date.....

FORM 6
(Rule 21)

APPLICATION FOR EXEMPTION FROM AN EXAMINATION
OR PART OF AN EXAMINATION

To: The Secretary
The Council of Legal Education
P.O. Box 50067
Lusaka

I, (a) (BLOCK CAPITALS)
of (b) whose certificate of enrolment number is
dated , 19..... , hereby apply for exemption from the following
Heads or Part of the (c) Examination,
namely:

.....
.....
.....
.....

by virtue of (d)

Dated this day of ,
19..... .

(Signed).....

(a) Full name of student

(b) Address.

(c) Description of examination.

(d) Grounds for claim for exemption stating section of Act under
which application is made.

SECOND SCHEDULE

TERM OF ARTICLES

(Rule 10 (1))

1. In the case of a person who, before entering into articles, has taken a degree, not being an honorary degree, at the University of Zambia or at any University specified in the Fourth Schedule, or such other University as the Council may from time to time recognise, or is in a position to supplicate for such degree, the term shall be three years.

2. In the case of a person who before entering into articles has acquired practical experience over such period and of such nature as may be approved by the Council the term shall be fixed by the Council but shall not in any case be less than three years.

3. In any other case the term shall be five years.

THIRD SCHEDULE

PRESCRIBED FEES

(Rule 17)

1. Legal Practitioners Qualifying Examination:

The fees which shall be payable by a student upon entry shall be as follows:
for each Head of the Examination for which notice of entry has been given the fee shall be 10 fee units for the first sitting and 25 fee units for each subsequent sitting.

2. Prescribed Examination:

The fees which shall be payable by a student upon entry shall be as follows:
for each Head of any Part of the Examination for which notice of entry has been given the fee shall be 13 fee units for the first sitting and 25 fee units for each subsequent sitting.

(As amended by S.I. No. 49 of 1977, No. 138 of 1981 and Act No. 13 of 1994)

FOURTH SCHEDULE

APPROVED UNIVERSITIES

(Rule 25)

1. Any University of a self-governing State which is, or was at any time, a member State or was part of a member State of the Commonwealth of Nations and which applies as its predominant basic system of law the Common Law.

2. Any University of the United Kingdom or the Republic of Ireland.

REPUBLIC OF ZAMBIA

THE LAW ASSOCIATION OF ZAMBIA ACT

CHAPTER 31 OF THE LAWS OF ZAMBIA

CHAPTER 31 THE LAW ASSOCIATION OF ZAMBIA ACTCHAPTER 31

THE LAW ASSOCIATION OF ZAMBIA ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

LAW ASSOCIATION OF ZAMBIA

3. Establishment of Association
4. Objects

PART III

MEMBERSHIP

5. Qualifications for membership
6. Subscriptions
7. Expulsion and suspension of members
8. Resignation and cessation of membership
9. Rights, etc., of members

PART IV

MANAGEMENT

10. Constitution of the Council
11. Powers of the Council
12. Employees
13. Committees

14. Representatives on other bodies
15. Procedure

PART V

LAW SOCIETY

Section

16. Repeal
17. Transitional
18. Transfer of assets and liabilities

PART VI

FINANCIAL AND GENERAL PROVISIONS

19. Power to hold property and raise money
20. Funds of Association
21. Income of Association exempt from tax
22. Accounts
23. Common seal
24. Rules

CHAPTER 31

LAW ASSOCIATION OF ZAMBIA²³ of 1973 36 of 1973

An Act to establish the Law Association of Zambia and to dissolve the Law Society of Zambia

(23rd March, 1973)

PART I

PRELIMINARY

1. This Act may be cited as the Law Association of Zambia Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation

"the Association" means the Law Association of Zambia established by section three;

"the Law Society" means the Law Society of Zambia established by the Law Society of Zambia (Private) Act. Cap 47 of the repealed Edition of the Laws of Zambia;

"lawyer" includes student of law;

"ordinarily resident" includes temporarily resident for the purpose of the performance of a contract.

PART II

LAW ASSOCIATION OF ZAMBIA

3. There is hereby established the Law Association of Zambia which shall by that name be a body corporate with perpetual succession and a common seal and which shall be capable of suing and being sued and, subject to the provisions of this Act, of doing or performing such acts or things as a body corporate may by law do or perform. Establishment of Association

4. The objects for which the Association is established are-

(a) to further the development of law as an instrument of social order and social justice and as an essential element in the growth of society;

(b) to provide a means by which all lawyers, whatever their particular field of activity, can participate together fully and effectively in the development of society and its institutions;

(c) to encourage lawyers as individuals to join actively in the life of, and identify themselves with, the people, and to utilise their skills and training in their service;

(d) to promote the education of lawyers at all stages and levels, with particular emphasis on the broadening of such education;

(e) to consider the qualifications of lawyers and to make recommendations to the Government thereon;

(f) to maintain and improve the standards of conduct of all members of the legal profession;

(g) to consider the legislation relating to legal aid and other ways of securing representation for persons who for any reason are unable to secure it, and to make recommendations to the Government thereon; and to establish machinery for the provision of legal aid in addition to that provided by the Government;

(h) to co-operate with the representative bodies of other professions and other institutions;

(i) to promote research in the development of the law in general and particularly in relation to-Objects

(i) the applicability and suitability of received law;

(ii) the character and content of customary law;

(iii) the influence of industrial, commercial and technological development on society and social institutions;

(j) to promote the reform of the law, both by the amendment of and the removal of imperfections in existing law, and by the re-formulation, codification or restatement of particular branches of the law;

(k) to participate when called upon in draft legislation, and to strengthen the machinery for the critical examination of its legal quality;

(l) to seek the advancement of the rule of law and of the rights and liberties of the individual;

(m) to promote the improvement and reform of the judicial and administrative systems, including tribunals and their procedure;

(n) to represent, protect and assist members of the legal profession in regard to their conditions of practice, remuneration and otherwise;

(o) to protect and assist the public in all matters touching, ancillary or incidental to the legal profession;

(p) to do all such other things as may be conducive to the attainment of the foregoing objects or any of them.

PART III

MEMBERSHIP

5. (1) Every person who immediately before the commencement of this Act is a member of the Law Society shall, on that date, become a member of the Association without payment of any entrance fee. Qualifications for membership

(2) Any of the persons referred to in subsections (3) and (4) who applies for membership in the prescribed manner and pays the prescribed fees shall be admitted as an ordinary member or an associate member, as the case may be, of the Association:

Provided that-

(i) a person who has been expelled from the Law Society or the Association shall not be admitted or re-admitted as a member without the approval, at a meeting of the Council, of not less than two-thirds of the total membership thereof;

(ii) no person who, whether in Zambia or elsewhere, has been suspended from practice or whose name has been struck off a roll of practitioners (by whatever name called) shall be qualified to become a member unless the period of his suspension has expired or his name has been restored to such roll.

(3) Ordinary membership shall be open to any person who is ordinarily resident in Zambia and who-

(a) is admitted to the roll of practitioners in Zambia or is qualified to practise elsewhere as a lawyer; or

(b) has been awarded the degree of Bachelor of Law by the University of

Zambia or has obtained a degree or other qualification acceptable to the Association for purposes of membership.

(4) Associate membership shall be open to any person who-

(a) is in regular attendance at the School of Law at the University of Zambia, or is a full-time student at a university elsewhere engaged in a programme leading directly to a degree acceptable to the Association for purposes of membership; or

(b) is an articled clerk serving under articles of clerkship in accordance with the Legal Practitioners Act; or Cap. 30

(c) is engaged in a programme of study acceptable to the Association for purposes of associate membership; or

(d) is a managing clerk employed by a legal practitioner in Zambia.

6. Members of the Association shall pay into the funds of the Association such periodical subscriptions as may from time to time be prescribed. Subscriptions

7. A member of the Association may be expelled or suspended therefrom upon such grounds and in such manner as may from time to time be prescribed: Expulsion and suspension of members

Provided that no member shall be expelled or suspended unless he has been afforded a reasonable opportunity of answering any allegations made against him.

8. (1) Any member of the Association may resign therefrom in such manner as may be prescribed. Resignation and cessation of membership

(2) Any member of the Association who ceases to be qualified for membership under section five shall thereupon cease to be a member.

9. Members of the Association shall have such rights, privileges and obligations as may be prescribed. Rights, etc., of members

PART IV

MANAGEMENT

10. (1) For the proper management of the affairs of the Association there shall be an executive committee (herein referred to as "the Council") consisting of a chairman, a vice-chairman, a secretary and a treasurer (herein referred to as "officers") and not more than twelve other persons. Constitution of the Council

(2) The members of the Council shall be members of the Association and shall be elected by the Association in general meeting;

Provided that a casual vacancy on the Council may be filled by the election by the remaining members of the Council of a substitute, who shall hold office until the expiration of office of the Council.

(3) (a) Associate members shall not be eligible for election as officers of the Association.

(b) The number of associate members on the Council shall not exceed one-quarter of the total membership thereof.

11. (1) Except as otherwise expressly provided by this Act, the Council may exercise all the powers of the Association. Powers of the Council

(2) No rules made under this Act or resolution passed by the Association in general meeting shall invalidate any prior act of the Council which would have been valid if such rules or resolution had not been made or passed, as the case may be.

12. The Council may engage employees and remunerate them in such manner as it may decide. Employees

13. (1) The Council may from time to time appoint committees consisting of members of the Association and may, except as otherwise expressly provided by this Act, delegate to any such committee all or any of the powers of the Council. Committees

(2) The Council may invite any person to serve on any such committee in an advisory capacity.

(3) There shall be elected at the first general meeting of the Association a Practitioners' Committee consisting of not less than five nor more than seven members of the Association who are holders of current practising certificates issued under the provisions of Part V of the Legal Practitioners Act and are in practice in Zambia. Cap. 30

(4) The members of the Practitioners' Committee shall hold office until the next ensuing annual general meeting of the Association, and shall have power to nominate, from amongst their number, a convenor, a secretary and such other officers as they may determine.

(5) Only those members of the Association present at an annual general meeting of the Association who are the holders of current practising certificates issued pursuant to the provisions of Part V of the Legal Practitioners Act and are in practice in Zambia shall be entitled to vote on the election of members of the Practitioners' Committee. Cap. 30

(6) The Practitioners' Committee shall have power to co-opt any person qualified to be a member of the Practitioners' Committee to fill a casual vacancy and any person so co-opted shall hold office until the next ensuing annual general meeting of the Association.

(7) The functions of the Practitioners' Committee shall be-

(a) to exercise on behalf of and in the name of the Association the powers of the Association relating to the issue of practising certificates pursuant to the provisions of Part V of the Legal Practitioners Act; Cap. 30

(b) to exercise on behalf of and in the name of the Association the powers of the Association relating to the Compensation Fund in accordance with the provisions of Part VI of the Legal Practitioners Act; Cap. 30

(c) to exercise on behalf of and in the name of the Association the powers conferred upon the Association by section sixty-nine of the Legal Practitioners

Act;Cap. 30

(d) to exercise the functions vested in the Remuneration Committee established pursuant to section seventy of the Legal Practitioners Act;Cap. 30

(e) to exercise the functions vested in the Association pursuant to the Legal Practitioners (Disciplinary Proceedings) Rules and the Legal Practitioners (Disciplinary Proceedings) (Practitioners' Clerks) Rules;Cap. 30

(f) to exercise on behalf of and in the name of the Association the functions of the Association pursuant to Part VIII of the Legal Practitioners Act;Cap. 30

(g) to exercise any functions vested in the Association by regulations made pursuant to section ninety of the Legal Practitioners Act;Cap. 30

(h) to exercise such other functions as may from time to time be delegated to the Practitioners' Committee by the Council or by the Association in general meeting.

14. Whenever it becomes necessary or desirable for the Association to appoint a representative to serve on any board, committee or other body, such representative may be appointed by the Council or by the Association in general meeting.Representatives on other bodies

15. The proceedings of the Council and of every committee appointed pursuant to section thirteen shall be regulated in such manner as may be prescribed.

(As amended by No. 36 of 1973)Procedure

PART V

LAW SOCIETY

16. The Law Society of Zambia (Private) Act, Chapter 47 of the Revised Edition, is repealed.Repeal

17. (1) After the commencement of this Act and until the Council, committees and officers of the Association are elected or appointed thereunder, the Council, committees and officers of the Law Society operating or holding office immediately before the commencement shall operate and hold office as the Council, committees and officers of the Association as if they had been elected or appointed under this Act.Transitional

(2) The rules of the Law Society in force immediately before the commencement of this Act shall thereafter remain in force as the rules of the Association mutatis mutandis as if they had been made under section twenty-four until such time as any rules are so made.

(3) Any representative appointed by the Law Society to serve on any board, committee or other body shall be deemed to be a representative appointed by the Association.

(As amended by No. 36 of 1973)

18. (1) Upon the commencement of this Act all property, assets, rights, liabilities and obligations of the Law Society shall vest in the Association by virtue of this Act and without further assurance.Transfer of assets and

liabilities

(2) All agreements, instruments, appointments, notices, applications, acts or deeds giving rise or otherwise relating to any rights, liabilities, duties or obligations of the Law Society which were subsisting immediately prior to the commencement of this Act shall on or after the commencement have effect and be enforceable as if instead of the Law Society the Association had been named therein or had been a party thereto.

(3) Any proceedings or cause of action pending or existing immediately prior to the commencement of this Act may be continued or enforced by or against the Association as it might have been continued or enforced by or against the Law Society as if this Act had not been enacted.

(4) In respect of any property, transfer, mortgage, lease, agreement, certificate or other instrument which is the subject of registration by virtue of any written law the proper officer of the appropriate registration authority shall upon the request of the Association without charge make such entry, memorial or endorsement or issue such new certificate or take such other action as may be necessary to give effect to the provisions of this section.

PART VI

FINANCIAL AND GENERAL PROVISIONS

19. The Association shall have power, for the advancement of its objects or any of them-

(a) to acquire, hold, develop, sell, mortgage, charge, lease or otherwise deal with or dispose of property of all kinds, whether real or personal;

(b) to raise or borrow money in such manner and upon such security as may be determined by the Council. Power to hold property and raise money

20. (1) The funds of the Association shall consist of-Funds of Association

(a) such sums as may be paid to the Association by way of entrance fees and subscriptions of members and fees payable on admission to the roll of practitioners and the issue of practising certificates;

(b) such sums as may be paid to the Association by way of grant or donation;

(c) such other moneys as may accrue to the Association in the exercise of its functions.

(2) The Council may invest in such manner as it shall think fit any moneys held by the Association which are not immediately required for the performance of its functions.

(3) Nothing contained in this Part shall permit the distribution or payment of any moneys or other assets or income of the Association to or for the benefit of any member of the Association.

21. The income of the Association from whatever source shall be exempt from any tax payable under any written law for the time being in force relating to taxes on income and profits. Income of Association exempt from tax

22. (1) The Association shall keep proper books of account and other records relating thereto and shall prepare in respect of each financial year a statement of account and balance sheet showing, in all necessary detail, the income and expenditure and the assets and liabilities of the Association.Accounts

(2) The accounts of the Association shall be audited annually by an auditor appointed by the Council.

23. The common seal of the Association shall be kept in such custody and used in such manner as may be prescribed.Common seal

24. Subject to the provisions of this Act, the Council may, by statutory instrument, make rules prescribing anything required or permitted by this Act to be prescribed, including, but without derogating from the generality of the foregoing, rules relating to-

(a) entrance fees and periodical subscriptions;

(b) applications for membership;

(c) the grounds for, and procedure relating to, expulsion or suspension of members;

(d) the resignation of members;

(e) the regulation and delegation of powers exercisable by the Council;

(f) the functions and powers of committees;

(g) meetings of the Association, the Council and committees;

(h) the election, removal and replacement of the officers of the Association, members of the Council and of committees of the Association, and representatives of the Association on any other bodies;

(i) the accounts of the Association;

(j) the custody and use of the common seal.

Rules

SUBSIDIARY LEGISLATION

LAW ASSOCIATION OF ZAMBIA

THE LAW SOCIETY OF ZAMBIA (PRIVATE) RULES

ARRANGEMENT OF RULES

Rule

1. Title

2. Interpretation

3. Membership

4. Entrance fees and periodical subscriptions
5. Expulsion
6. Suspension
7. Resignation
8. The Council
9. Committees
10. General meetings
11. Reports and accounts
12. Council and officers
13. Representatives of Society
14. The seal
15. Arbitration
16. Notices
17. Amendment of Rules

SECTION 17(2)-THE LAW SOCIETY OF ZAMBIA (PRIVATE) RULES

Rules made under Section 18 of the Law Society of Zambia (Private) Act, Chapter 47 of the Revised Edition, and continued in force by virtue of Section 17 (2) of the Law Association of Zambia Act.

Government Notices

148 of 1962

497 of 1964

Act

13 of 1994

1. These Rules may be cited as the Law Society of Zambia (Private) Rules. Title

2. In these Rules unless, the context otherwise requires- Interpretation

"member" means a full or associate member of the Society.

"month" means calendar month;

"rules" or "regulations" means these Rules or any other rules or regulations made by the Council;

"the secretary" means the secretary of the Society and includes any deputy or person temporarily fulfilling the duties of the office.

3. (1) A candidate for admission as a full member must possess one of the

qualifications required by paragraph (a) or (b) of subsection (2) of section six of the Act. Membership

(2) A candidate for admission as an associate member must be ordinarily resident in Zambia and either-

(a) a qualified person as defined by section six of the Legal Practitioners Act; or Cap. 30

(b) a person qualified to practise as a solicitor, attorney, barrister or advocate in any country which is a member of the Commonwealth of Nations.

(3) Every candidate for membership shall be proposed by a full member in writing addressed to the secretary in such form as the Council shall from time to time require and signed by the proposer and by the candidate, who shall thereby undertake, if elected, to conform to the Act and the rules of the Society.

(4) A candidate who is qualified in accordance with sub-rule (1) and every candidate who is qualified in accordance with sub-rule (2) and whom the Council shall, in its uncontrolled discretion, think fit to admit to membership shall, subject to payment of the prescribed entrance fee, be admitted by the Council as a full member or as an associate member, as the case may be, and such membership shall continue until the member ceases to be so qualified, resigns from the Society or is expelled therefrom in the prescribed manner.

(5) An associate member shall be entitled to receive all notices of and to attend meetings of the Society and to enjoy all other privileges of membership, except that he shall not have any right to vote at any meeting of the Society or to serve on the Council or on any committee of the Society or as a representative of the Society on any board, committee or other body.

4. (1) The entrance fee payable by a full member shall be sixty three fee units or, if he is already an associate member, thirty two fee units. Entrance fees and periodical subscriptions

(2) The entrance fee payable by an associate member shall be thirty two fee units.

(3) The subscription payable by each full or associate member shall be such sum as may from time to time be recommended by the Council and approved by the Society in general meeting.

(4) The first subscription shall become payable upon admission to membership, and subsequent subscriptions shall become payable in advance upon the 1st January in every year:

Provided that the first subscription of a full member who, immediately before his admission as a full member, was an associate member, shall be reduced by the amount of the subscription already paid by him in respect of the year in which he becomes a full member.

(As amended by Act No. 13 of 1994)

5. (1) If it shall be represented to the Council by a requisition in writing signed by three or more full members that there is reason to believe that any member has been guilty of conduct which, in the absence of satisfactory

explanation, would render him unfit to remain a member, the Council shall send to such member a statement in writing of the conduct imputed to him and shall afford him an opportunity of giving an explanation in writing or in person, as he may elect. Expulsion

(2) If, on the consideration of such explanation or in the absence of any explanation, the Council shall be of opinion that such member ought to be expelled from the Society, they shall state their opinion in the form of a report to be laid before a general meeting of the Society, and such member shall be liable by special resolution to be excluded from the Society, and if such resolution be so passed he shall thereupon cease to be a member thereof.

(3) The Council may in their discretion exclude from the Society any member who is a bankrupt or who has made any arrangement or composition with his creditors.

6. The Council may suspend any member from the exercise of all rights and privileges of a member during such period as they may think fit, not extending beyond the next annual general meeting, for any cause which shall in their opinion render such suspension necessary or expedient: Suspension

Provided that-

(i) at least five members of the Council must be present at the meeting at which the suspension shall be resolved on;

(ii) the Council shall have afforded to such member an opportunity of giving an explanation to the Council in writing or in person, as he may elect.

7. A member may retire from the Society by sending in his resignation in writing to the Council. Resignation

8. (1) The Council may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman of the meeting shall have a second or casting vote. Any member of the Council may, and the secretary on the requisition of a member of the Council shall, at any time, summon a meeting of the Council. The Council

(2) The president or, failing him, the vice-president of the Society shall be chairman of all meetings of the Council at which he is present, but if at any meeting neither the president nor vice-president is present within fifteen minutes after the time appointed for holding the same, the members of the Council present may choose one of their number to be chairman of the meeting.

(3) The quorum necessary for the transaction of the business of the Council shall be three.

(4) The Council shall meet at such place as shall from time to time be determined by them or, failing any such determination, at the office of the secretary.

9. (1) The Council may delegate any of their powers to committees consisting of such full members of the Society as they think fit; any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the Council. Committees

(2) A committee may elect a chairman of their meetings, but if no such chairman

is elected or if at any meeting the chairman is not present within ten minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

(3) A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and, in case of an equality of votes, the chairman shall have a second or casting vote.

(4) Any member of a committee may at any time summon a meeting thereof. Meetings of the committee shall be held in such place as shall from time to time be determined by the members thereof or, failing such determination, by the convenor of the meeting.

(5) The quorum necessary for the transaction of the business of a committee may be fixed by that committee, and unless so fixed shall be two.

10. (1) The annual general meeting shall be held at such time (not being more than fifteen nor less than nine months after the holding of the last preceding annual general meeting) and place as may be determined by the Council. In default of the annual general meeting being so convened, an annual general meeting shall be held in the month next following the last day upon which the annual general meeting should have been held and may be convened by any two full members of the Society in the same manner as nearly as possible as that in which meetings are to be convened by the Council. General meetings

(2) The Council may, when they think fit, convene a special general meeting, and shall, on the requisition in writing of not less than three full members of the Society, forthwith proceed to convene a special general meeting of the Society. Any such requisition must state the objects of the meeting and must be signed by the requisitionists and deposited at the office of the secretary. If the Council do not proceed to cause a meeting to be held within thirty days from the date of the requisition being so deposited, the requisitionists or a majority of them may themselves convene the meeting.

(3) Ten days' notice at the least (exclusive of the day on which the notice is served or deemed to have been served but inclusive of the day for which notice is given) specifying the place, the day and the hour of the meeting and business to be brought before the meeting shall be given to every member of the Society, but the non-receipt of the notice by any member shall not invalidate the proceedings at any general meeting.

(4) No business shall be transacted at any general meeting unless a quorum of full members is present at the time when the meeting proceeds to business; save as herein otherwise provided, ten full members personally present shall be a quorum. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting if convened upon the requisition of full members shall be dissolved; in any other case it shall stand adjourned to the same day in the next week at the same time and place, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the full members present shall be a quorum. The president or, failing him, the vice-president shall be the chairman at every general meeting of the Society, but if neither of them shall be present at any meeting within fifteen minutes after the time appointed for holding the same, the full members present shall choose some one of their number to be chairman of that meeting.

(5) The chairman may, with the consent of any meeting at which a quorum is

present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. It shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

(6) Except where otherwise provided by the Act or by these Rules, all questions shall be decided by a majority of the full members present in person or by proxy and voting, and in all cases, including the case of a contested election, the chairman shall, in the event of an equality of votes, have a second or casting vote.

(7) A resolution put to the vote of the meeting shall be decided on a show of hands of full members unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least three full members.

(8) If a poll is duly demanded it shall be taken forthwith and in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting.

(9) Every full member present in person or by proxy shall have one vote, whether on a show of hands or on a poll.

(10) No person shall act as a proxy unless he is entitled on his own behalf to be present and vote at the meeting at which he acts as a proxy. The instrument appointing a proxy shall be in writing under the hand of the appointer and shall be delivered to the secretary not later than the time fixed for holding the meeting at which the person named in the instrument proposes to vote.

11. At the annual general meeting in every year the chairman thereof shall present the report of the Council upon the general affairs of the Society for the previous year, and the secretary shall present the accounts of the Society for the same year for the approval of the meeting. Reports and accounts

12. (1) The president and vice-president and the five other members of the Council shall be elected at the annual general meeting in each year and shall continue in office until the close of the next annual general meeting, or if from any cause their successors shall not be elected at such meeting, then until the election of their successors. Council and officers

(2) The Society in general meeting may from time to time appoint a secretary, treasurer and such other officers of the Society, paid or unpaid, for such period and upon such terms and conditions as the Society shall determine and may in general meeting at any time remove any such person from his appointment.

(3) The secretary, treasurer and any other officer of the Society shall, notwithstanding such appointment, be eligible for election as a member of the Council.

(4) Any officer or member of the Council desirous of vacating his office may send in his resignation in writing to the Council and, on the acceptance of such resignation by the Council, his office shall become vacant and not before.

(5) The office of a member of the Council shall be vacated if he becomes of unsound mind, suffers a receiving order in bankruptcy to be made against him, ceases to be a full member of the Society or abstains without leave from attending three consecutive meetings of the Council, and a resolution of the

Council declaring his office to have been vacated upon any such ground as aforesaid shall be conclusive as to the facts.

(6) A casual vacancy on the Council may be filled by the election of a substitute by the remaining members of the Council, and such substitute shall hold office until the expiration of office of the Council.

13. The Council may at any time appoint and the Society may at any time in general meeting elect a full member of the Society to be the representative of the Society upon any board, committee or other body and shall, upon his appointment or election, determine the period of his office as such representative, and any such representative may at any time be removed from such office and another full member of the Society may be appointed or elected in his place by the Council or the Society, as the case may be. Representatives of Society

14. The Society shall have a common seal which shall be kept in the custody of the secretary and shall not be affixed to any instrument except by the authority of a resolution of the Council and in the presence of at least two members of the Council and of the secretary, or such other person as the Council may appoint for the purpose, and those two members of the Council and the secretary or other person as aforesaid shall sign every instrument to which the seal of the Society is so affixed in their presence. The seal

15. If any question or difference shall arise between members of the Society upon any matter of professional conduct, etiquette or practice, the parties to such question or difference may refer the same to the Council, who shall thereupon appoint two of their number to be arbitrators of the matter in difference, and such arbitrators shall have power to take the opinion of such counsel as they may think fit upon any question of law that may arise and at their discretion to adopt any opinion so taken and to obtain the assistance or advice of the Incorporated Law Society in England, and every such reference shall be deemed to be made in accordance with the provisions of the Arbitration Act and every statutory modification thereof for the time being in force, and each of the parties shall do all acts and things and execute all deeds and instruments necessary to give effect to the award to be made pursuant to such reference. Arbitration
Cap. 40

16. Any notice required to be given by these Rules may be given to any member either personally or by sending it by post to him at his usual or last known place of business or to the Society by delivering it or sending it by post to the secretary, and when a notice is sent by post it shall be deemed to be duly given on the day after that on which it was posted. Notices

17. These Rules may be amended from time to time by the Council by resolution of the Council, but no such amendment shall come into force until the same has been approved by a special resolution of the Society in general meeting. Amendment of Rules

THE LAW ASSOCIATION OF ZAMBIA (ELECTORAL) RULES

ARRANGEMENT OF RULES

PART I

PRELIMINARY

Rule

1. Short title
2. Interpretation

PART II

GENERAL PROVISIONS

3. Electoral Committee
4. Returning Officer
5. Functions of Returning Officer
6. Election Officers
7. Election Agent
8. Nomination day
9. Identification of candidates

PART III

PROCEDURE FOR NOMINATIONS

10. Nomination of candidates
11. Withdrawal of nomination
12. Validity of nomination
13. Procedures after determining the validity of nomination
14. Notice of Polls
15. Inspection of Nomination Papers

PART IV

THE POLL AND THE BALLOT

Rule

16. The polls
17. Voting by Proxy
18. Ballot paper
19. Issuance of Ballot Paper

20. Ballot boxes and election material
21. Procedure for casting vote
22. Counting of votes
23. Spoilt papers
24. Questions arising on decision of Returning Officer
25. Recounting of votes
26. Equality of votes
27. Results of elections
28. Control of persons during Polling

PART V

PROCEDURE AFTER COUNTING VOTES

29. Ballot Papers to be sealed in packets after counting
30. Custody and destruction of election matters

PART VI

MISCELLANEOUS

31. Election Petitions
32. Amendment of Rules
33. Indemnity

SECTION 24-LAW ASSOCIATION OF ZAMBIA (ELECTORAL) RULES

Rules by Council Statutory Instrument
156 of 1996

PART I

PRELIMINARY

1. These Rules may be cited as the Law Association of Zambia (Electoral) Rules.Short title
2. (1) In these rules, unless the context otherwise requires-

"ballot box" means a ballot box provided to a Returning Officer for taking of a Poll;

"ballot paper" means the document prescribed in the Schedule to these Rules;

"candidate" means a person who, in relation to an election has lodged or intends to lodge his nomination papers;

"Committee" means the Electoral Committee established under Rule 3;

"election officer" means a person appointed by the Council under Rule 6;

"membership card" means a membership card issued to a full or associate member by the Association;

"member" means a full or associate member of the Association;

"nomination paper" means the document prescribed under Rule 10;

"Presiding Officer" means the Returning Officer appointed by the Council under Rule 4;

"Proxy form" means the form prescribed under Rule 17;

"Register of voters" means a register of full members compiled by the Association;

"Returning Officer" means a person appointed under Rule 4;

"Voters Roll" means the register of members compiled by the Association. Interpretation

3. (1) There shall be an Electoral Committee which shall consist of a Chairman and two other members appointed by the Council from amongst the members of the Association, in respect of each election. Electoral committee

(2) The Committee shall-

(a) ensure that elections are conducted in accordance with these Rules;

(b) issue necessary instructions to the Returning Officer, Presiding Officer and Election Officers to ensure compliance with the provisions of these Rules;

(c) supervise and direct the elections; and

(d) perform any other functions conferred on the Committee by these Rules.

PART II

GENERAL PROVISIONS

4. (1) The Returning Officer shall be appointed by the Council from amongst the members of the Association for the purpose of electing-Returning Officer

(a) officers;

(b) members of the Council, and

(c) members of the Legal Practitioners Committee.

5. The Returning Officer shall-Functions of Returning Officer

- (a) perform the duties and functions of the presiding officer;
- (b) ensure that elections are conducted impartially and in accordance with these Rules and any other Rules in force;
and
- (c) perform all such functions as may be conferred or imposed on him by these Rules.

6. The Council shall appoint in respect of each election, not more than three election officers from amongst the full members of the Association, who shall assist the Returning Officer in the performance of his functions.Election Officers

7. (1) A candidate shall name his election agent in his nomination papers and such person shall be the candidate's election agent for those polls.Election Agent

(2) An election agent referred to in sub-rule (1), shall be a member of the Association.

(3) A candidate may revoke the appointment of his election agent at any time by giving written notice to the election agent.

(4) The election agent may resign by giving written notice to the candidate.

8. (1) The Council shall in respect of each election-Nomination day

(a) appoint the day on which, and the hours when the Returning Officer may receive nominations of candidates, under these Rules, not less than fourteen days from the date of holding the Annual General Meeting; and

(b) publish in two consecutive issues of one Newspaper circulating in Zambia the day and the hours within which the Returning Officer shall receive nominations.

(2) Any nomination received after the day and hours appointed under sub-rule (1) shall be void.

(3) All nomination papers shall be lodged with the Returning Officer at the secretariat within the time prescribed.

(4) The Returning Officer shall receive nomination papers on the day and within the hours prescribed under sub-rule (1).

9. Any candidate standing for elections shall use the names appearing on the voters roll or members register, to identify himself.Identification of candidates

PART III

PROCEDURE FOR NOMINATION

10. (1) The Returning Officer shall provide nomination papers to persons who qualify for nomination and who request for such papers. Nomination of candidates

(2) A candidate in an election shall lodge with the Returning Officer, his nomination papers in accordance with the provisions of this part.

(3) The nomination paper referred to in sub-rule (2) shall be in Form LAZ 1 set out in the Schedule.

(4) The candidate referred to in sub-rule (2) shall-

(a) complete the form referred to in sub-rule (3);

(b) personally sign the form or the person authorised in writing shall sign on his behalf and a copy of the written authority shall be attached to the nomination paper;

(c) state the name and address of his election agent, if any;

(d) lodge the nomination papers within the period appointed under Rule 8; and

(e) pay the non-refundable nomination fee of-

(i) one hundred thousand Kwacha in the case of a candidate for the position of Chairman or Vice-Chairman; or

(ii) seventy-five thousand Kwacha in the case of a candidate for the position of Secretary or Treasurer; or

(iii) fifty thousand Kwacha in the case of a candidate for the position of a member of the Council or of the Legal Practitioners Committee.

(5) The candidate lodging a nomination paper or a person duly authorised by him, shall present himself to the Returning Officer.

(6) The Returning Officer shall sign the nomination paper signifying that the nomination is valid.

11. A nomination may be withdrawn by the candidate or the person authorised in that behalf at any time before the expiry of the period appointed for lodging nomination papers by giving written notice to the Returning Officer. Withdrawal of nomination

12. (1) The Returning Officer shall determine the validity of each nomination lodged under Rule 8, after the period for receiving nominations has expired. Validity of nomination

(2) The Returning Officer shall declare any nomination invalid if the nomination paper-

(a) was not duly completed;

(b) is not properly signed;

(c) is not lodged as required by Rule 10;

(d) is not accompanied by the declaration referred to in the nomination paper or the declaration is defective in any material particular; or

(e) the appropriate fee was not paid.

(3) The Returning Officer shall endorse on the nomination paper his reason for declaring the nomination invalid and shall sign such endorsement.

13. (1) A Returning Officer shall, after determining the validity of the nominations lodged, inform the Committee of the names of the candidates validly nominated. Procedure after determining the validity of nomination

(2) Where the Returning Officer determines that no candidate has been validly nominated for any position, the Returning Officer shall inform the Committee accordingly.

(3) Where the Committee is informed under sub-rule (2) that no candidate has been validly nominated to any position the Committee shall, in respect of that position, call for further nominations.

(4) Where only one candidate has validly filed his nomination papers for any position or office, there shall be no election held for that position or office, and the Returning Officer shall declare such candidate to be duly elected and inform the Committee accordingly.

14. (1) Where two or more candidates have been validly nominated for election to a particular position or office, the Returning Officer shall give notice to the Council and the Committee that a poll shall be taken on the day appointed and such notice shall set out the names of such candidates in alphabetical order of surnames. Notice of polls

(2) The Committee shall publish information regarding nominations to the members of the Association.

15. (1) Any person may, at any reasonable time, inspect the nomination papers validly filed with the Returning Officer after the notice referred to in Rule 14 has been given. Inspection of nomination papers

(2) The inspection referred to in sub-rule (1) shall be conducted before the day of taking the poll.

PART IV

THE POLLS

16. (1) The polls for any position or office shall be conducted at the Annual General Meeting and shall constitute part of the business of the Annual General Meeting. The polls

(2) A person eligible to vote and is a fully paid up member shall cast his vote for any position or office.

(3) A member of the Association who is not fully paid up, shall not vote during any election.

(4) An eligible voter shall be identified by-

(a) his membership card; and

(b) evidence that he is a paid up member of the Association.

(5) Every poll taken under these Rules shall be by secret ballot and in accordance with the provisions of these Rules.

17. (1) A member eligible to vote may vote by proxy.

(2) A member voting by proxy shall complete the Form LAZ 2 set out in the Schedule. Voting by proxy

18. (1) The ballot paper for an election of members of the Council or Legal Practitioners Committee shall be in Form LAZ 3 set out in the Schedule. Ballot paper

(2) The ballot paper for an election to the office of Chairman, Vice-Chairman, Secretary or Treasurer, shall be in Form LAZ 4 set out in the Schedule.

19. A person referred to in Rule 17 shall be issued with a ballot paper if- Issuance of ballot paper

(a) he produces a membership card as a full member of the Association; and

(b) he complies with the requirements under these Rules.

20. (1) The Committee shall ensure that there are sufficient ballot boxes and ballot papers and shall provide the Presiding Officer with copies of the Voters' Roll and all the election material used in the election. Ballot boxes and election material

(2) The Committee shall make such arrangements to facilitate the taking of the Poll and to ensure that it is taken in the manner provided by these Rules.

21. (1) Before issuing a ballot paper to the voter, an election officer shall- Procedure for casting votes

(a) call out the name and number of the member as recorded in the voter's roll; and

(b) stamp such ballot paper with the official mark.

(2) The voter, on receiving the ballot paper, shall signify his vote by secretly writing the name of the candidate and folding the ballot paper and placing it in the ballot box for that purpose.

22. (1) The Returning Officer shall ensure that the counting of votes cast takes place as soon as practicable after the close of the poll. Counting of votes

(2) A candidate or his agent in any election shall be entitled to be present and observe the counting of votes cast.

(3) The votes cast shall be counted by the Returning Officer with the help of election officers.

23. (1) The Returning Officer shall not count any ballot paper if the ballot paper is-Spoilt papers

(a) not properly complete, or

(b) unmarked or invalid for uncertainty.

(2) The Returning Officer shall write the word "rejected" on any spoilt ballot paper which is not to be counted and shall add "rejection objected to" if any objection to the Returning Officer's decision is made by a candidate, or his election agent.

24. Except on an election petition filed under these Rules, the decision of the Returning Officer on any question arising in respect of any ballot paper shall not be questioned. Questions arising on decision of Returning Officer

25. (1) Where a candidate or his election agent disputes the results of the votes counted, the candidate, or his election agent may, if present when the counting or any recounting of the votes is completed, require the Returning Officer to have the votes recounted or again recounted. Recounting of votes

(2) The Returning Officer, if not satisfied with the results of votes counted may, on his own initiative, have the votes recounted.

(3) The Returning Officer may refuse the request under sub-rule (1) if in his opinion, it is unreasonable to do so.

26. The poll shall be repeated if there is an equality of votes between two or more leading candidates. Equality of votes

27. The results of the poll shall be announced at the Annual General Meeting at which the Poll is conducted as soon as the votes are counted. Results of elections

28. The Presiding Officer shall keep order during voting and may require persons who are not eligible to vote to leave the Annual General Meeting during voting. Control of persons during polling

PART V

PROCEDURE AFTER COUNTING THE VOTES

29. On the completion of the counting of votes cast in an election, the Returning Officer shall seal separate marked packets of ballot papers counted in respect of each candidate, and shall place the rejected ballot papers in a single marked packet. Ballot papers to be sealed in packets after counting

30. (1) The ballot papers sealed in accordance with Rule 29 and all other election material shall be delivered to the secretariat of the Association and the Committee shall ensure that the ballot papers and all election materials are retained for a period of thirty days after the day on which the results of an election are declared, and shall cause them to be destroyed after thirty days. Custody and destruction of election matter

(2) Where the Committee has been informed that an election petition has been presented in respect of such election the packets shall not be destroyed until

such time as the trial for such election petition has been finally determined.

PART VI

MISCELLANEOUS

31. (1) Any election of a candidate or any decision made under these Rules shall be questioned by an election petition filed under these Rules. Election petition

(2) An election petition under these Rules shall be filed in the High Court.

(3) The procedure and grounds for filing any election petition under these Rules shall be as provided under Part VI of the Electoral Act and the Rules made by the Chief Justice under that Act, but may be varied as circumstances and these Rules permit. Cap. 13

32. These Rules may be amended by a resolution of the Council, but no such amendment shall come into force until the Rules are approved by a resolution of the Association at a general meeting. Amendment of Rules

33. Members of the Committee, Returning Officers and Election Officers shall not be personally liable for anything done or omitted to be done in the performance of their duties under these Rules. Indemnity

LAW ASSOCIATION OF ZAMBIA (ELECTORAL) RULES
(Rule 10)
NOMINATION PAPER

To: The Returning Officer
We the undersigned being full members of the Association do hereby nominate-

First Names (in BLOCK CAPITALS)

Surname (in BLOCK CAPITALS)
Name of Firm/Company/Employer
Postal Address

to stand as a candidate for election as*
And I, the said (full name of candidate in BLOCK CAPITALS)

hereby declare that I accept the nomination.
Election Agent (full name)
Membership Card/Reference Number
Postal Address
Date.....

Signature of Candidate

Received by me at (time).....on the
day
of.....19...
...

Signature of Returning Officer

* Indicate Chairman/Vice-Chairman, Secretary, Treasurer, Council member or
member of the Legal Practitioners Committee as the case may be.

NOTES

1. Candidates are advised to acquaint themselves with the provisions of the Rules before completing this nomination paper.
2. When this nomination paper is lodged it must be accompanied by the fee prescribed under paragraph (e) of sub-rule (4) of Rule 10.
3. A candidate may authorise another person to countersign a nomination paper on his behalf and to lodge it with the Returning Officer, but, in that event, the written authorisation of the candidate is required to be attached to the nomination paper.

Full name
BLOCK
CAPITALS

SignatureMember's
Card/Reference
Number Proposed by Seconded by Supported by

Rule 17(2)
FORM LAZ 2

LAW ASSOCIATION OF ZAMBIA (ELECTORAL) RULES
(Rule 17)
PROXY FORM

I of.....
being a member of the Law Association of Zambia hereby appoint
as my Proxy to vote for me on my behalf at the Annual General Meeting of the Law
Association of Zambia to be held on

Dated this day of.....19.....
I will be/will not
be attending the Annual General Meeting.

Signed.....
Member

Rule 18(1)
FORM LAZ 3

LAW ASSOCIATION OF ZAMBIA (ELECTORAL) RULES

(Rule 18)

BALLOT PAPER

ELECTION OF COUNCIL MEMBERS/MEMBERS OF THE LEGAL PRACTITIONERS COMMITTEE*
NAMES OF CANDIDATES 1.2.3.4.5.6.7.8.9.10.11.12.* Delete whichever is not applicable.

Note- Write the names of the candidates for whom you wish to vote in BLOCK LETTERS. You may vote for up to 12 candidates in case of an election of Council members and up to 7 in case of an election of members of the Legal Practitioners Committee. To be valid each Ballot paper must be signed by the person voting or his/her proxy.

Signed.....

Rule 18(2)
FORM LAZ 4

LAW ASSOCIATION OF ZAMBIA (ELECTORAL) RULES

(Rule 18)

BALLOT PAPER

ELECTION OF CHAIRMAN/VICE-CHAIRMAN/SECRETARY/
TREASURER* 1900/1900

NAME OF CANDIDATE

Note: Write the name of the candidate for whom you wish to vote in BLOCK
LETTERS. You may vote for only
one candidate. To be valid each Ballot paper must be signed by the
person voting or his/her proxy.

Signed.....

* Delete whichever is not applicable.

THE LAW ASSOCIATION OF ZAMBIA (GENERAL) RULES

ARRANGEMENT OF RULES

Rule

1. Short Title
2. Interpretation
3. Membership
4. Entrance Fees and Periodical Subscriptions
5. Expulsion
6. Suspension
7. Resignation
8. General Meetings
9. Reports and Accounts
10. Council Officers
11. Seal
12. Proceedings of Council
13. Committees
14. Disclosure of interest
15. Prohibition of publication or disclosure of information to unauthorised persons
16. Arbitration
17. Notices
18. Amendment of Rules
19. Revocation of the Law Society of Zambia (Private) Rules

THE LAW ASSOCIATION OF ZAMBIA Cap. 31
Statutory Instrument
155 of 1996

SECTION 24-LAW ASSOCIATION OF ZAMBIA (GENERAL) RULES

Rules by Council

1. These Rules may be cited as the Law Association of Zambia (General) Rules.Short Title

2. In these Rules, unless the context otherwise requires-Interpretation

"member" means a full or associate member of the Association;

"month" means calendar month;

"Rules" means these Rules or any other rules made by the Council;

"Secretary" means the Secretary of the Association.

3. (1) A full member of the Association shall be a person qualified under paragraph (a) or (b) of subsection (2) of section five of the Act.Membership

(2) An associate member shall be a person ordinarily resident in Zambia who-

(a) qualifies under section six of the Legal Practitioners Act; orCap. 30

(b) qualifies to practice as a solicitor, attorney, barrister or advocate in any country which is a member of the Commonwealth of Nations.

(3) A person who qualifies to be proposed by a full member in writing addressed to the Secretary in the form prescribed in the Schedule to these Rules.

(4) A person proposed under sub-rule (3) shall undertake, if elected, to conform to the Act and the rules of the Association.

(5) A person who qualifies to be a member of the Association under these Rules shall apply to the Council to become a member after paying the prescribed fees.

(6) A person referred to in sub-rule 5 shall cease to be a member if-

(a) he ceases to qualify as provided for under this Rule;

(b) resigns from the Association; or

(c) is expelled.

(7) An associate member shall subject to sub-rule (8) be entitled to receive all notices of, and to attend, meetings of the association and to enjoy all other privileges of membership.

(8) An associate member referred to in sub-rule (7) shall not vote at any meeting of the Association or serve as a representative of the Association on any Board, Committee or any other body.

4. (1) The Entrance fees and subscription fees to be paid by a full or associate member shall be as recommended by the Council and approved by the Association at a general meeting.Entrance Fees and Periodical Subscriptions

(2) The first subscription fees referred to in sub-rule (1) shall be paid by a member on such member becoming a member.

(3) The subscription referred to in sub-rule (1) shall be paid by the 1st January of each year.

5. (1) Three or more full members may present a signed requisition to the Council in writing if there is reason to believe that any member has been guilty

of any misconduct which, in the absence of satisfactory explanation, would render him unfit to remain a member. Expulsion

(2) The Council shall send to such member a statement in writing of the conduct imputed to him and shall afford him an opportunity of giving an explanation in writing or in person, as he may elect.

(3) If, on the consideration of such explanation or in the absence of any explanation, the Council is of the opinion that such member ought to be expelled from the Association, they shall state their opinion in the form of a report to be laid before a general meeting of the Association, and such member shall be liable by resolution to be excluded from the Association and if such resolution is passed, he shall thereupon cease to be a member.

(4) The Council may in their discretion exclude from the Association any member who is a bankrupt or who has made any arrangement or composition with his creditors.

6. (1) The Council may suspend any member from the exercise of all rights and privileges of a member during such period as they may thin fit, not extending beyond the next Annual General Meeting, for any cause which shall in their opinion render such suspension necessary or expedient: Suspension

Provided that-

(a) at least nine members of the Council are present at the meeting at which it is resolved to suspend such member; and

(b) the Council has afforded to such member an opportunity of giving an explanation to the Council in writing or in person, as he may elect.

7. A member may resign from the Association by sending his resignation letter to the Secretary of the Association. Resignation

8. (1) The Annual General Meeting shall be held at such time not later than fifteen and not less than nine months after holding the last annual general meeting at a place determined by the Council. General Meetings

(2) If the Annual General Meeting is not convened, an Annual General Meeting shall be held in the month next following the last day upon which the Annual General Meeting should have been held and may be convened by any two full members of the Association in the same manner in which meetings of the Council may be convened in accordance with these Rules.

(3) The Council may convene an extra ordinary general meeting, if three full members of the Association request for such meeting in writing.

(4) The request for such meeting referred to in sub-rule (3) shall be sent to the secretary of the Association and shall state the objects of the meeting and signed by the members requesting such meeting.

(5) If the Council fails to convene a meeting referred to in sub-rule (3) within thirty days, the members who requested such meeting may convene the meeting, provided that such members shall comply with these Rules in convening the meeting.

(6) The Council shall give ten days' notice, exclusive of the day on which the

notice is served but inclusive of the day for which notice is given.

(7) The notice served under sub-rule (6) shall specify the place, the day and the hour of the meeting and business to be brought before the meeting and sent to every member of the Association.

(8) Any notice not received by any member shall not invalidate the proceedings of any general meeting.

(9) The quorum of a general meeting shall be fifty full members.

(10) If within half an hour from the time appointed for the meeting a quorum is not formed, the meeting if convened on request by full members shall be dissolved, in any other case it shall stand adjourned to the same day in the next week at the same time and place, and if at the adjourned meeting a quorum is not formed within half an hour from the time appointed for the meeting, the full members present shall be the quorum.

(11) The Chairman or, in the absence of the Chairman, the Vice -Chairman, shall preside at every general meeting of the Association.

(12) In the absence of both the Chairman and the Vice-Chairman, the full members present shall elect a Chairman from amongst themselves for that meeting.

(13) The Chairman may, with the consent of any meeting at which a quorum is formed and if so directed by the meeting, adjourn the meeting but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(14) A notice of an adjournment or of the business to be transacted at an adjourned meeting shall not be given.

(15) Except where otherwise provided by the Act or by these Rules, all questions shall be decided by a majority of the full members present in person or by proxy and voting, and in all cases, including the case of contested election, the Chairman shall, in the event of an equality of votes, have a deliberative and a casting vote.

(16) A resolution put to the vote of the meeting shall be decided on a show of hands of full members, unless a poll is, before or on the declaration of the result of the show of hands, demanded by at least three full members.

(17) A poll referred to in sub-rule (16) shall be taken in such manner as the Chairman may direct and the result of the poll shall be by a resolution of the meeting.

(18) Every full member present in person or by proxy shall have one vote, whether on a show of hands or by a poll.

(19) A person shall not act as a proxy unless he is entitled on his own behalf to be present and to vote at the meeting at which he acts as a proxy.

(20) A person shall appoint a proxy in writing to the secretary not later than time fixed for holding the meeting at which the person named in the proxy proposes to vote.

9. (1) The Chairman shall present a report on the general affairs of the

Association for the previous year at the Annual General Meeting. Reports and Accounts

(2) The Treasurer shall present the accounts of the Association for the year, for the approval of the meeting at the Annual General Meeting.

10. (1) The Chairman, Vice-Chairman, Secretary and Treasurer and twelve other members of the Council shall be elected at the Annual General Meeting in each year and shall continue in office until the close of the next Annual General Meeting. Council Officers

(2) Any officer or member of the Council may resign by writing to the Council and, on the acceptance of such resignation by the Council, his office shall become vacant.

(3) The office of a member of the Council shall become vacant if-

(a) he becomes of unsound mind;

(b) an order in bankruptcy is made against him;

(c) he ceases to be a full member of the Association or abstains without leave from attending three consecutive meetings of the Council, without good cause and a resolution of the Council is passed declaring his office to be vacant.

(6) A casual vacancy on the Council may be filled by the election of another full member by the remaining members of the Council, and such substitute shall hold office until the expiration of the term of office of the Council.

11. (1) The seal of the Council shall be such device as may be determined by the Council and shall be kept by the Secretary. Seal

(2) The affixing of the seal shall be authenticated by the Chairman or the Vice-Chairman and the Secretary or one other person authorised in that behalf by a resolution of the Council.

(3) Any document purporting to be a document under the seal of the Council or issued on behalf of the Council shall be received in evidence and shall be executed or issued, as the case may be, without further proof, unless the contrary is proved.

12. (1) Subject to the other provisions of these rules the Council may regulate its own procedure. Proceedings of Council

(2) The Council shall meet for the transaction of business, at least once in every three months at such places and at such times as the Chairman may decide.

(3) Upon giving notice of not less than fourteen days, a meeting of the Council may be called by the Chairman and shall be called if not less than one third of the members so requested in writing:

Provided that if the urgency of any particular matter does not permit by the giving of such notice, a special meeting may be called upon giving a shorter notice.

(4) The quorum at any meeting of the Council shall be seven.

(5) There shall preside at any meeting of the Council-

(a) the Chairman;

(b) in the absence of the Chairman, the Vice-Chairman;

(c) in the absence of the Chairman and Vice-Chairman, such member as the members present may elect from amongst themselves for the purposes of that meeting.

(6) A decision of the Council on any question shall be by the majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(7) The Council may invite any person, whose presence in its opinion is desirable, to attend and to participate in the deliberations of a meeting of the Council but such person shall have no vote.

(8) The validity of any proceedings, act or decision of the Council shall not be affected by any vacancy in the membership of the Council or by any defect in the appointment of any member or by reason that any person not entitled so to do took part in the proceedings.

(9) The Council shall cause minutes to be kept of the proceedings of every meeting of the Council and every meeting of any committee established by the Council.

13. (1) The Council may, for the purposes of performing its functions under this Act, establish committees and delegate to any such committee such of its functions as it thinks fit. Committees

(2) The Council may appoint as members of a committee established under subsection (1), persons who are or are not members of the Council and such persons shall hold office for such period as the Council may determine.

(3) Subject to any specific or general direction of the Council any committee established under sub-rule (1), may regulate its own procedure.

14. (1) If a member is present at a meeting of the Council or any committee of the Council at which any matter is the subject of consideration and in which matter the member is the subject of consideration and in which matter the member or a member's spouse is directly or indirectly interested in a private capacity, he shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Council otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter. Disclosure of interest

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

15. (1) A member of the Council shall not without the consent in writing given by, or on behalf of the Council, publish or disclose to any unauthorised person, otherwise than in the course of his duties, the contents of any documents, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of his duties under this Act. Prohibition of

publication or disclosure of information to unauthorised persons

(2) Any person who contravenes the provisions of sub-rule (1) shall be guilty of professional misconduct in terms of the Legal Practitioners Act, and shall be liable to disciplinary proceedings in accordance with the Part IV of that Act. Cap. 30

(3) Any Council Member liable to disciplinary proceedings under sub-rule (2) shall be suspended by the Council from performing his duties as a member of the Council.

(4) Nothing contained in this Rule shall supersede, lessen, or interfere with the powers vested in the Council and the Association to expel a member for misconduct.

16. Any question or difference between the Association and members or between members relating to professional conduct, etiquette or practice, shall be resolved in accordance with the Arbitration Act with such modifications as circumstances may permit. Arbitration
Cap. 40

17. Any notice required to be given under these Rules shall be given to any member either personally or by sending it by post at the person's usual or last known address. Notices

18. These Rules may be amended by a Resolution of the Council, but no such amendment shall come into force until such Rules have been approved by a resolution of the Association at a general meeting. Amendment of Rules

19. The Law Society of Zambia (Private) Rules are hereby repealed. Revocation of the Law Society of Zambia (Private) Rules
Cap. 30

SCHEDULE

(Rule 3 (3))

LAW ASSOCIATION OF ZAMBIA

MEMBERSHIP PROPOSAL FORM

To: The Secretary

Law Association of Zambia

I propose

Name of candidate

of

Business and Residential Address

Tel.....

Fax

Whose Qualifications are: (see notes below)

As a full/associate member* of the Association.

*delete whichever is not applicable.

PROPOSER'S NAME, ADDRESS

Tel..... Fax.....

SIGNED (PROPOSER) DATE.....

I, undertake, if elected to membership of the Association, to conform to the Law Association of Zambia Act Chapter 31 and the Rules of the Association.

SIGNED (CANDIDATE) DATE.....

NOTES:

(1) A full member of the Association shall be a person qualified under paragraph (a) or (b) of subsection (2) of section five of the Law Association of Zambia Act.

(2) An associate member shall be a person ordinarily resident in Zambia who-

(a) qualifies under section six of the Legal Practitioners Act; or

(b) qualifies to practise as a solicitor, attorney, barrister or advocate in any country which is a member of the Commonwealth of Nations.

(3) A candidate who qualifies to be a member shall be proposed by a full member in writing i.e. by completing this form which should be addressed to the Secretary.

(4) A candidate being proposed shall undertake, if elected, to conform to the said Act and the rules of the Association.

(5) A person who has been duly proposed for membership and is qualified to be a member of the Association shall apply for such membership to the Council of the Association by lodging this proposal form with the Secretary of the Association after paying the prescribed fees.

REPUBLIC OF ZAMBIA

THE ZAMBIA LAW DEVELOPMENT COMMISSION ACT

CHAPTER 32 OF THE LAWS OF ZAMBIA

CHAPTER 32 THE ZAMBIA LAW DEVELOPMENT COMMISSION ACT CHAPTER 32

THE ZAMBIA LAW DEVELOPMENT COMMISSION ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

THE ZAMBIA LAW DEVELOPMENT COMMISSION

3. Establishment of the Zambia Law Development Commission
4. Functions of Commission

5. Composition of Commission
6. Tenure of office
7. Seal of Commission
8. Filling of casual vacancy
9. Proceedings of Commission
10. Committees
11. Disclosure of interest

PART III

DIRECTOR OF THE COMMISSION

12. Director and Deputy Director
13. Secretary, Research fellows and other staff
14. Prohibition of disclosure of information

PART IV

FINANCIAL PROVISIONS

15. Funds of Commission
16. Financial year
17. Accounts
18. Annual report

PART V

MISCELLANEOUS

Section

19. Savings and transitional provisions
20. Transfer of staff
21. Regulations

CHAPTER 32

ZAMBIA LAW DEVELOPMENT COMMISSION Act No.
11 of 1996
38 of 1996

An Act to establish the Zambia Law Development Commission; to define the

functions of the Zambia Law Development Commission; to repeal and replace the Law Development Commission and Institute for Legislative Drafting Act and to provide for matters connected with or incidental to the foregoing.

[1st April, 1996]

PART I

PRELIMINARY

1. This Act may be cited as the Zambia Law Development Commission Act. Short title

2. In this Act, unless the context otherwise requires- Interpretation

"Commission" means the Zambia Law Development Commission established under section three;

"Commissioner" means the person appointed as Commissioner under section five;

"Chairperson" means the person appointed as Chairperson under section five;

"Deputy Chairperson" means the person appointed as Deputy Chairperson under section five;

"Deputy Director" means the person appointed as Deputy Director under section twelve;

"Director" means the person appointed as Director under section twelve;

"former Commission" means the Law Development Commission established under the repealed Act;

"repealed act" means the Law Development Commission and Institute of Legislative Drafting Act. Act No. 5 of 1974

PART II

THE ZAMBIA LAW DEVELOPMENT COMMISSION

3. There is hereby established the Zambia Law Development Commission which shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may by law do or perform. Establishment of the Zambia Law Development Commission

4. (1) The functions of the Commission shall be to research and make recommendations on- Functions of Commission

(a) the socio-political values of the Zambian people that should be incorporated into legislation;

(b) the anomalies that should be eliminated in the statute book;

(c) new and more effective methods of administration of the law and the dispensation of justice that should be adopted and legislated;

(d) new areas of the law that should be developed which are responsive to the changing needs of Zambian society; and

(e) the removal of archaic pieces of legislation from the statute book.

(2) Without prejudice to the generality of subsection (1) the functions of the Commission shall be to-

(a) revise and reform the law in Zambia;

(b) codify unwritten laws in Zambia;

(c) review and consider proposals for law reform referred to the Commission by the Minister or the members of the public;

(d) hold seminars and conferences on legal issues;

(e) translate any piece of legislation into local languages;

(f) encourage international co-operation in the performance of its functions under this Act; and

(g) do all such things incidental or conducive to the attainment of the functions of the Commission.

5. (1) The Commission shall consist of the following part-time members:Composition of Commission

(a) a Judge nominated by the Judiciary;

(b) a representative of any School of Law in a public university;

(c) a representative of the Institute of African Studies at the University of Zambia;

(d) the Chief Parliamentary Draftsman;

(e) a representative of the Law Association of Zambia;

(f) the Director of the Institute of Advanced Legal Education; and

(g) not more than four other persons appointed;

(2) The Chairperson and the Vice-Chairperson shall be appointed by the Minister.

(3) The Chairperson shall be a person qualified to be a judge of the High Court with a bias in research.

(4) The members referred to in subsection (1) shall be appointed by the Minister.

(As amended by Act No. 38 of 1996)

6. (1) A member referred to in section five shall hold office for a period of three years from the date of that person's appointment and shall be eligible for

re-appointment for a further period of three years.Tenure of office

(2) A member referred to in subsection (1) may resign upon giving one month's notice in writing to the organisation that nominated him and to the Minister.

(3) The Minister may remove a member if-

(a) the member is absent without reasonable excuse from three consecutive meetings of the Commission of which he has had notice;

(b) he ceases to hold the office which he occupies or ceases to be a representative of the organisation which nominated him; or

(c) the member is declared bankrupt.

(As amended by Act No. 38 of 1996)

6A. A member shall be paid such remuneration or allowances as the Commission may, with the approval of the Minister, determine.Remuneration and allowances

(As amended by Act No. 38 of 1996)

7. (1) The seal of the Commission shall be such device as may be determined by the Commission and shall be kept by the Secretary.Seal of Commission

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson or any other person authorised in that behalf by a resolution of the Commission.

(3) Any document purporting to be under the seal of the Commission or issued on behalf of the Commission shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

8. Subject to section seven, whenever the office of a member becomes vacant before the expiry of the term of office, the Minister may appoint another person to be a member in place of the member who vacates the office.Filling of casual vacancy

9. (1) Subject to the other provisions of this Act, the Commission may regulate its own procedure.Proceedings of Commission

(2) The Commission shall meet for the transaction of business at least once every three months at such places and times as the Chairperson may determine.

(3) The Chairperson may at any time call a meeting of the Commission and shall call a special meeting to be held within fourteen days of receipt of a written request addressed to him by at least five Commissioners.

(4) If the urgency of any particular matter does not permit the giving of such notice as is required under subsection (3), a special meeting may be called by the Chairperson, upon giving a shorter notice.

(5) Two-thirds of the Commissioners shall form a quorum at any meeting of the Commission.

(6) There shall preside at any meeting of the Commission-

(a) the Chairperson;

(b) in the absence of the Chairperson the Vice-Chairperson; or

(c) in the absence of both the Chairperson and Vice-Chairperson, such member as the members present may elect for the purpose of that meeting.

(7) A decision of the Commission on any question shall be by a majority of the Commissioners present and voting at the meeting and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(8) The Commission may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Commission, but such person shall have no vote.

(9) The validity of any proceedings, acts or decisions of the Commission shall not be affected by any vacancy in the membership of the Commission or by any defect in the appointment of any Commissioner by reason that any person not entitled to do so took part in the proceedings.

10. (1) The Commission may, for the purpose of performing its functions under this Act, establish such committees as it considers necessary and delegate to any of those committees such of its functions as it considers fit. Committees

(2) Subject to subsection (1), the Commission may appoint as members of a committee, persons who are, or are not, Commissioners, except that at least one member of a committee shall be a Commissioner.

(3) A person serving as a member of a committee shall hold office for such period as the Commission may determine.

(4) Subject to any specific or general direction of the Commission, a committee may regulate its own procedure.

11. (1) If any person is present at a meeting of the Commission or any committee at which any matter is the subject of consideration and in which matter that person or his spouse is directly or indirectly interested in a private capacity, that person shall as soon as practicable after the commencement of the meeting, declare such interest and shall not, unless the Commission or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter. Disclosure of interest

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

PART III

THE DIRECTORATE OF THE COMMISSION

12. (1) The Commission shall appoint the Director and Deputy Director of the Commission. Director and Deputy Director

(2) The Director shall be the Chief Executive Officer of the Commission who shall be responsible for the management and administration of the Commission.

(3) The Director shall be responsible for the implementation of the decisions of the Commission.

13. (1) The Director shall be the Secretary to the Commission. Secretary, Research fellows and other staff

(2) The Commission may appoint Research Fellows on such terms and conditions as it may determine.

(3) There shall be such other staff of the Commission as the Commission may consider necessary.

14. (1) A person shall not without the consent in writing given by, or on behalf of the Commission, publish or disclose to any person otherwise than in the course of his duties, the contents of any documents, communication, or information which relates to, and which has come to his knowledge in the course of his duties under this Act. Prohibition of disclosure of information

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three years or to both.

(3) If any person having any information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any other person, he shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three years or to both.

PART IV

FINANCIAL PROVISIONS

15. (1) The funds of the Commission shall consist of such moneys as may-Funds of Commission

(a) be appropriated by the National Assembly for the purposes of this Act;

(b) be paid to the Commission by way of grants or donations; and

(c) vest in or accrue to the Commission.

(2) The Commission may-

(a) subject to the approval of the Minister, accept money by way of grants or donations from any source;

(b) subject to the approval of the Minister, raise by way of loans or otherwise, such money as it may require for the discharge of its functions;

(c) charge and collect fees in respect of programmes, publications, seminars, consultancy services and other services provided by the Commission.

(3) There shall be paid from the funds of the Commission-

- (a) the salaries, allowances and loans of the staff of the Commission;
- (b) such reasonable travelling, transport and subsistence allowances for the Commissioners and members of any committee of the Commission when engaged in the business of the Commission, and at such rates as the Minister may after consultation with the Commission, determine; and
- (c) any other expenses incurred by the Commission in the performance of its functions.

(As amended by Act No. 38 of 1996)

16. The financial year of the commission shall be the period of twelve months ending on 31st December in each year. Financial year

17. (1) The Commission shall cause to be kept proper books of account and other records relating to its accounts. Accounts

(2) The accounts of the Commission shall be audited annually by independent auditors appointed by the Commission, subject to the approval of the Minister.

(3) The auditors' fees shall be paid by the Commission.

18. (1) As soon as practicable, but not later than ninety days after the end of the financial year, the Commission shall submit to the Minister a report concerning its activities during the financial year. Annual report

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Commission and there shall be appended to the report-

- (a) an audited balance sheet;
- (b) an audited statement of income and expenditure; and
- (c) such other information as the Minister may require.

(3) The Minister shall not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subsection (1), lay the report before the National Assembly.

PART V

MISCELLANEOUS

19. (1) Subject to the other provisions of this Act, a person who immediately before the commencement of this Act, held office as a member of the former Commission, shall hold office as a member of the Commission for a period of three months. Savings and transitional provisions

(2) After the period referred to in subsection (1) the Commissioners shall be appointed in accordance with this Act.

(3) Nothing in this Act affects the rights or liabilities of any person employed by the former Commission immediately before the commencement of this Act.

(4) On the appointed date, all property, assets, rights, liabilities and

obligations of the former Commission shall vest in the Commission established by this Act.

(5) Any proceedings or cause of action instituted or pending by or against the former Commission immediately prior to the commencement of this Act, shall continue as if instituted under this Act.

20. (1) The employees of the former Commission shall be deemed to be transferred to the Commission from the commencement of this Act. Transfer of staff

(2) The service of the employees referred to in subsection (1) shall be treated as continued service.

(3) The employees of the Commission shall continue to contribute to the Public Service Pension Scheme under the Public Service Pensions Act. Cap. 260

21. The Minister may, by statutory instrument, make Regulations for the better carrying out of the purposes of this Act. Regulations

REPUBLIC OF ZAMBIA

THE COMMISSIONERS FOR OATHS ACT

CHAPTER 33 OF THE LAWS OF ZAMBIA

CHAPTER 33 THE COMMISSIONERS FOR OATHS ACT CHAPTER 33

THE COMMISSIONERS FOR OATHS ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Appointment of Commissioners for Oaths
4. Annual publication of list of Commissioners for Oaths
5. Powers of Commissioners
6. Particulars to be stated in jurat or attestation clause
7. Offences and penalties

CHAPTER 33

COMMISSIONERS FOR OATHS

An Act to make provision for the appointment of Commissioners for Oaths

[6th January, 1939] 44 of 1938

51 of 1951
13 of 1994
Government Notices
303 of 1964
497 of 1964

1. This Act may be cited as the Commissioners for Oaths Act. Short title

2. In this Act, unless the context otherwise requires— Interpretation

"Deputy Registrar" means a Deputy Registrar of the High Court;

"Registrar" means the Registrar of the High Court.

3. (1) The Registrar, every Deputy Registrar and every magistrate shall be ex officio a Commissioner for Oaths. Appointment of Commissioners for Oaths

(2) The Chief Justice may, from time to time, by Gazette notice, appoint other persons to be Commissioners for Oaths, and may in the same manner revoke any such appointment.

(As amended by No. 51 of 1951 and G.N. No. 303 of 1964)

4. The Registrar shall, as near as may be after the 1st April in every year, prepare a list of all Commissioners for Oaths appointed under subsection (2) of the preceding section and cause the same to be published in the Gazette. Annual publication of list of Commissioners for Oaths

5. A Commissioner for Oaths may administer any oath or take any affidavit or declaration for the purposes of any court or matter in Zambia, including any matter required to be sworn, declared or attested under any law relating to the registration of instruments or documents or under any law relating to passports: Powers of Commissioners

Provided that a Commissioner for Oaths shall not exercise any of the powers given to him by this section in any proceeding in which he is solicitor to any of the parties to the proceeding, or clerk to any such solicitor, or in which he is interested.

(No. 51 of 1951)

6. Every Commissioner for Oaths before whom any oath or affidavit is taken or made under this Act shall state truly in the jurat or attestation at what place and on what date the oath or affidavit is taken or made. Particulars to be stated in jurat or attestation clause

7. Any person who, not being a Commissioner for Oaths, appointed by or under this Act, shall hold himself out as a Commissioner for Oaths for the purposes of this Act, shall be guilty of an offence and shall be liable to a fine not exceeding one thousand five hundred penalty units or, in default of payment, to imprisonment for a period not exceeding six months, or to both.

(As amended by Act No. 13 of 1994) Offences and penalties

REPUBLIC OF ZAMBIA

THE LEGAL AID ACT

CHAPTER 34 OF THE LAWS OF ZAMBIA

CHAPTER 34 THE LEGAL AID ACTCHAPTER 34

THE LEGAL AID ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation
3. Scope of legal aid

PART II

APPOINTMENT AND POWERS

4. Appointment and functions of Director and staff
5. Right of audience of legal aid assistants
6. Legal practitioners
7. Legal aid committees

PART III

LEGAL AID IN CRIMINAL CASES

8. Legal aid in the High Court
9. Legal aid in subordinate courts
10. Powers and duties of Director in criminal cases

PART IV

LEGAL AID IN CIVIL CASES

11. Application for legal aid in civil cases
12. Powers of Director
13. Legal aid in civil actions where the State is a party

PART V

LEGAL AID IN APPEALS

14. Applications for legal aid in appeals
15. Director may grant legal aid for appeals
16. Courts may direct the grant of legal aid for appeals

PART VI

FINANCIAL CONSIDERATIONS OF LEGAL AID

Section

17. Contributions towards legal aid
18. Ascertainment of means
19. Costs awarded to legally aided persons
20. Costs awarded against legally aided persons

PART VII

MISCELLANEOUS

21. Parties to submit to arbitration in certain cases
22. Termination of legal aid
23. Applications for legal aid on behalf of persons under disability
24. Administrator-General may be administrator ad litem in certain cases
- 24A. Person may refuse or dispense with legal aid
25. Regulations
26. Act to bind Republic

CHAPTER 34

LEGAL AID 30 of 1967

34 of 1972

An Act to provide for the granting of legal aid in civil and criminal matters and causes to persons whose means are inadequate to enable them to engage practitioners to represent them; and to provide for matters connected with or incidental to the foregoing.

[Sections 1-19 and 21-27-3rd July, 1967]

[Section 20-20th November, 1967]

PART I

PRELIMINARY

1. This Act may be cited as the Legal Aid Act. Short title

2. In this Act, unless the context otherwise requires-Interpretation

"court" shall include any court or tribunal before which a practitioner may represent a client, but shall not include a local court established under the Local Courts Act;Cap. 29

"Director" means a public officer appointed as Director of Legal Aid;

"legal aid" has the meaning given to the expression in section three;

"legal aid assistant" means a public officer appointed as a Legal Aid Assistant or Senior Legal Aid Assistant;

"legal aid committee" means a committee established in accordance with the provisions of section seven;

"legal aid counsel" means a public officer appointed as a Legal Aid Counsel, Assistant Senior Legal Aid Counsel or Senior Legal Aid Counsel;

"practitioner" shall have the meaning assigned to the word in the Legal Practitioners Act;Cap. 30

"specified offence" means an offence of a class specified by the Minister by statutory order for the purposes of section nine; and

"subordinate court" means a court constituted under the Subordinate Courts Act.

(As amended by No. 34 of 1972)Cap. 28

3. (1) Legal aid shall consist, on the terms provided for in this Act, of-Scope of legal aid

(a) the assistance of a practitioner including all such assistance as is usually given by a practitioner in the steps preliminary or incidental to any proceedings or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings; and

(b) representation in any court.

(2) Save as otherwise provided in or under this Act-

(a) the fact that assistance or representation is by way of legal aid shall not affect the relationship between or the rights of practitioner and client or any privilege arising out of such relationship; and

(b) the rights conferred by this Act on a legally aided person shall not affect the rights or liabilities of any other parties to any proceedings or the principles on which the discretion of any court is normally exercised.

PART II

APPOINTMENTS AND POWERS

4. (1) There shall be appointed as public officers a Director of Legal Aid and such legal aid counsel and legal aid assistants as shall be necessary for the proper administration of this Act:Appointment and functions of Director and staff

Provided that no person other than one who has attended or is attending a course of post-graduate study required by the Council of Legal Education and provided by the Law Practice Institute shall be appointed as legal aid assistant.

(2) The functions of the Director under this Act may be exercised and performed by him in person or by legal aid counsel acting in accordance with his general or special directions.

(3) Save as otherwise in this Act provided, in the exercise of the powers conferred upon him by this Act the Director shall not be subject to the direction or control of any other person or authority.

(4) Subject to the provisions of section thirteen, whenever the Director grants legal aid to a person under this Act he shall, unless he allocates the matter in question to a practitioner under section six, provide that person with such of the services included in legal aid as may be required.

(As amended by No. 34 of 1972)

5. (1) Notwithstanding that he is not a practitioner, every legal aid assistant shall, in any matter in which any services included in legal aid are provided by the Director, be entitled to appear for and represent a legally aided person—Right of audience of legal aid assistants

(a) in any criminal proceedings before a subordinate court;

(b) in any civil proceedings before a subordinate court;

(c) in any proceedings in chambers; and

(d) for the purpose of making any application in proceedings before a subordinate court, where the Director is representing a legally aided person and is unable to attend.

(2) The right of audience conferred on legal aid assistants by this section is in addition to and not in derogation of any other written law relating to the right of audience of a person who is not a practitioner.

(As amended by No. 34 of 1972)

6. (1) The Director may, by agreement with any practitioner, retain the services of that practitioner for the purpose of providing legal aid under this Act and every such agreement shall be upon and shall set out such conditions, including the remuneration of the practitioner, as the Minister may in each case approve. Legal practitioners

(2) The Director may allocate to any practitioner, whether or not the practitioner has been retained under subsection (1), any matter in respect of which he has granted legal aid under this Act and the practitioner shall, save as otherwise provided by agreement between the practitioner and the Director, be entitled to the appropriate prescribed fees for his services.

(3) The Director may at any time in his discretion dispense with the services of any practitioner to whom any matter in respect of which legal aid has been granted has been allocated, except where legal aid has been granted under section thirteen.

7. (1) There is hereby established for each District a legal aid committee which shall perform such functions and exercise such powers in relation to legal aid in civil matters and causes as are imposed or conferred on the committee by or under this Act. Legal aid committees

(2) The Minister shall appoint the members of each legal aid committee.

(3) A member of a legal aid committee who is not a public officer shall be paid such allowance as may be prescribed.

(4) Subject to this Act and any regulations made thereunder, each legal aid committee shall regulate its own practice and procedure.

PART III

LEGAL AID IN CRIMINAL CASES

8. (1) Whenever any court commits a person for trial before the High Court and the court considers that the accused has insufficient means to enable him to engage a practitioner to represent him, the committing court shall issue a legal aid certificate. Legal aid in the High Court

(2) If an accused person before the High Court is unrepresented by a practitioner and the Court considers that there is insufficient reason why the accused should not be granted legal aid, the Court may issue a legal aid certificate.

9. (1) Whenever- Legal aid in subordinate courts

(a) a person is-

(i) charged with a specified offence; or

(ii) charged with an offence other than a specified offence and any court before which he appears considers that, having regard to all the circumstances of the case, it is desirable in the interests of justice that the accused should have legal aid;

(b) the case is not to be the subject of a preliminary inquiry; and

(c) any court before which the accused appears considers, after inquiry, that the accused has insufficient means to enable him to engage a practitioner to represent him;

the court shall issue a legal aid certificate.

(2) If during a preliminary inquiry held under the Criminal Procedure Code the court considers that- Cap. 88

(a) having regard to all the circumstances of the case it is desirable in the interests of justice that the accused should be represented by a practitioner at that inquiry; and

(b) the accused has insufficient means to enable him to engage a practitioner

to represent him;

the court shall recommend to the Director that the accused be granted legal aid.

(3) Whenever a subordinate court refuses to grant a legal aid certificate to a person charged with an offence who applies to the court for legal aid, the court shall advise the accused of his right to apply to the Director and, where the offence charged is a specified offence, shall also advise the Director of the reasons for such refusal.

10. (1) The Director shall grant legal aid to any person in respect of whom a legal aid certificate has been issued under this Part. Powers and duties of Director in criminal cases

(2) The Director may grant legal aid to any person with respect to whom a recommendation has been made by a court under section nine.

(3) Any person charged with an offence may apply to the Director for legal aid, whether or not an application for legal aid has been made to or refused by any court, and if the Director considers that-

(a) having regard to all the circumstances of the case, it is desirable in the interests of justice that the accused person should be represented by a practitioner; and

(b) the accused has insufficient means to enable him to engage a practitioner to represent him;

the Director may grant legal aid to that person.

PART IV

LEGAL AID IN CIVIL CASES

11. Application for legal aid to be granted under this Part may be made either to the Director or to a legal aid committee and, in the case where a legal aid committee considers an applicant to be eligible for legal aid under section twelve, it shall recommend to the Director that legal aid be granted accordingly. Application for legal aid in civil cases

12. (1) Subject to subsection (2), the Director may grant legal aid to any applicant who in his opinion-Powers of Director

(a) is in need of or would benefit from the services of a practitioner in any civil case or matter affecting him; and

(b) has insufficient means to obtain such services.

(2) Notwithstanding the provisions of subsection (1), the Director shall not grant legal aid for the purpose of proceedings in any court unless he is satisfied that-

(a) an applicant has reasonable grounds for taking, defending or being a party to these proceedings; and

(b) it is in the interests of justice that the applicant should be represented in these proceedings.

(3) The Director may of his own motion invite any person to apply for legal aid if it appears to the Director that such person may-

(a) be eligible for legal aid under this section; and

(b) be ignorant of his right to apply for legal aid.

13. (1) A court may at any time issue a special aid certificate to any person who is a party in any civil proceedings, whether at first instance or at appeal, in which the State is also a party if the court considers that-Legal aid in civil actions where the State is a party

(a) the person satisfies the conditions under which legal aid may be granted to him under this Act; and

(b) it is in the interests of justice that the person should be represented by a practitioner other than the Director.

(2) The powers of a court under subsection (1) shall be exercisable whether or not legal aid has been applied for or granted under any other provision of this Act.

(3) In granting a special aid certificate under this section, the court may specify one or more practitioners and the Director shall thereupon allocate the representation of the person concerned to the practitioner or practitioners so specified who shall represent that person to the exclusion of any other practitioner.

(4) Where a special aid certificate has been granted under this section, the court may order the legally aided person to contribute to the cost of the legal aid afforded to him to such extent as seems to the court to be just and reasonable having regard to that person's means.

(As amended by No. 34 of 1972)

PART V

LEGAL AID IN APPEALS

14. Application for legal aid may be made either to the Director or to a legal aid committee by any person who-

(a) intends to appeal against his conviction or sentence or against any judgment or order affecting him which was made in any criminal cause or matter;

(b) becomes a respondent in any appeal in a criminal cause or matter,

(c) intends to appeal against any final judgment or order of a court in any civil cause or matter; or

(d) becomes a respondent in an appeal in a civil cause or matter;

and in the case where application is made to a legal aid committee, the committee shall, if it considers the applicant eligible to be granted legal aid under this section, recommend to the Director that legal aid be granted accordingly.Applications for legal aid in appeals

15. The Director may grant legal aid to an applicant under section fourteen if he satisfied that-

(a) the applicant has insufficient means to enable him to obtain the services of a practitioner to represent him in the appeal to which the application relates;

(b) the applicant has reasonable grounds for instituting, defending or being a party to the appeal; and

(c) it is in the interests of justice that the applicant should be represented in the appeal. Director may grant legal aid for appeals

16. Where, in any appeal before the High Court or the Supreme Court, any party to the appeal is unrepresented and the court considers that a point of law of public importance is likely to arise in the appeal, the court may issue a legal aid certificate and the Director shall thereupon grant legal aid to that party for the purposes of the appeal. Courts may direct the grant of legal aid for appeals

PART VI

FINANCIAL CONSIDERATIONS OF LEGAL AID

17. (1) Subject to subsection (2), the Director may, in granting legal aid to any person under this Act, require that person to contribute to the cost of that legal aid to an extent which seems to the Director to be just and reasonable having regard to that person's means. Contributions towards legal aid

(2) No contribution made under subsection (1) shall exceed the appropriate sum calculated in the manner prescribed for this purpose:

Provided that different methods of calculating such sum may be prescribed for criminal and civil matters.

(3) Any sum remaining unpaid on account of the contribution required to be made under subsection (1) may be recovered as a civil debt as if the sum had been adjudged to be payable to the Republic as such by an order of a subordinate court of the first class.

(4) Where damages, costs or any property is recovered for a legally aided person, the costs incurred by the Director on behalf of the legally aided person reduced by any contribution made by such person under subsection (1) shall be the first charge in favour of the Republic upon the sum representing damages, costs or the property so recovered.

(As amended by No. 34 of 1972)

18. (1) In ascertaining the means of any person for the purpose of this Act, that person's income and his personal and real property shall be taken into account: Ascertainment of means

Provided that no account shall be taken of his dwelling-house, his household furniture or the tools or implements of his trade.

(2) The subject-matter of any dispute in relation to which legal aid is granted

shall not be taken into account in assessing a person's means.

(3) In assessing a person's means, such of his commitments as may be prescribed shall be deducted from the resources which would otherwise be his means.

19. (1) Where a court in respect of any proceedings before it awards costs to a legally aided person, the costs should be paid to the Director and only the Director shall be capable of giving good discharge for costs so payable. Costs awarded to legally aided persons

(2) For the purpose of receiving any costs payable to him in pursuance of subsection (1), the Director may take all such steps and pursue all such remedies as could have been taken or pursued by the legally aided person to whom costs were awarded and the costs of taking such steps or pursuing such remedies may be recovered and received by the Director.

(3) Costs paid to the Director in pursuance of this section shall be paid into and shall form part of the general revenues of the Republic:

Provided that a legally aided person may be paid out of the costs paid to the Director the amount, or such portion of the amount as the Director considers just and equitable, of any contribution made by him under section seventeen.

(4) Subject to this section, the costs awarded by a court to a legally aided person shall be the costs which would have been payable if the services performed under legal aid had been performed by a practitioner in private practice on the instruction of a client without benefit of legal aid, and such costs shall be taxed accordingly.

20. (1) Where any court awards costs against a legally aided person, those costs shall not, except where the court considers that there was no sufficient cause for that person to institute or defend the proceedings, exceed the contribution which that person was required to make or which the court considers he could reasonably have been required to make under section seventeen, whichever is the greater. Costs awarded against legally aided persons

(2) Costs awarded by a court against a legally aided person shall be paid out of moneys provided for the purpose by Parliament.

PART VII

MISCELLANEOUS

21. Where in any proceedings or contemplated proceedings, all the parties thereto apply for legal aid under this Act and the Director considers that the dispute is of a nature which could properly be the subject of arbitration, the Director may, as a condition of the granting of legal aid, require the parties to submit the dispute to arbitration. Parties to submit to arbitration in certain cases

22. The Director may, at any time for any reason which he considers to be sufficient, terminate legal aid granted under this Act in any civil cause or matter: Termination of legal aid

Provided that, in the case of legal aid granted under section thirteen, he shall do so only with the leave of the court.

23. For the purpose of the granting of legal aid under this Act, an application for legal aid which is properly made by any person on behalf of any other person shall be deemed to have been made by that other person. Applications for legal aid on behalf of persons under disability

24. (1) Where legal aid has been granted under any of the provisions of this Act for the purpose of bringing or defending proceedings for the benefit of the estate of a deceased person or for the purpose of bringing proceedings under the Fatal Accidents Acts, 1846 to 1908, of the Parliament of the United Kingdom for the benefit of any dependant of a deceased person, and where it appears to the Director that there is no person able and willing to take probate or letters of administration, as the case may be, or to be appointed administrator under the provisions of section thirty-six of the Local Courts Act, then he may request the Administrator-General to apply to the court for a grant of administration for the limited purposes of bringing or defending such proceedings and, upon such application being made, it shall be lawful for the court in its discretion to appoint the Administrator-General to be an administrator for such limited purpose. Administrator-General may be administrator ad litem in certain cases
Cap. 29

(2) The provisions of subsection (1) shall not be limited by the provisions of section thirty-two of the Administrator-General's Act. Cap. 58

(3) Nothing in this section shall be deemed-

(a) to limit the power of the Administrator-General to apply for a grant of probate or general or other letters of administration under any other written law; or

(b) to render the Administrator-General personally liable in any way for any act done by him in pursuance of his duties as an administrator appointed under this section.

24A. (1) Notwithstanding anything to the contrary contained in this Act-Person may refuse or dispense with legal aid

(a) an accused person may (should he so decide) refuse legal aid which would otherwise be granted to him in furtherance of a legal aid certificate issued or to be issued under Part III;

(b) a court may, on the application of a legally aided person-

(i) cancel any legal aid certificate which has been issued in respect of that person;

(ii) cancel any recommendation made under subsection (2) of section nine;

(iii) permit him to conduct his own case or by a practitioner of his choice without legal representation which has been arranged by the Director.

(2) Where an accused person refuses legal aid or makes application under paragraph (b) of subsection (1), the court shall record reasons put forward by the accused person for the refusal or the application, as the case may be.

(3) Where in any proceedings commenced before a court an accused person has refused legal aid or the court has cancelled a legal aid certificate or a recommendation under paragraph (b) of subsection (1), the court shall continue

with and conclude such proceedings without the legal aid.

(4) The cancellation of a legal aid certificate or the recommendation under paragraph (b) of subsection (1) shall not affect the right of the Director to require an accused person to contribute to the cost of such legal aid as may have been provided before the cancellation.

(No. 34 of 1972)

25. (1) Subject to subsection (2), the Minister may, by statutory instrument, make regulations for the better carrying out of the purposes of this Act and, without prejudice to the generality of the foregoing, such regulations may make provision for-Regulations

(a) anything which is to be or which may be prescribed under this Act;

(b) the composition, powers and functions of legal aid committees and the practice and procedure to be observed by these committees;

(c) the form of any certificate, any application and any other document which may be required for the purposes of this Act;

(d) the manner in which the means of any person who may be eligible for legal aid shall be computed;

(e) the manner of payment and recovery of any contribution required under section seventeen to be made by a person to whom legal aid is granted; and

(f) reports and information required by the Director for the purposes of this Act to be supplied by public officers and other persons.

(2) In the event of any conflict between regulations made under this section and any rules of court made under the Subordinate Courts Act, the High Court Act or the Supreme Court Act, the provisions of the rules of court shall prevail. Cap. 28

Cap. 27

Cap. 25

26. This Act shall bind the Republic. Act to bind Republic

SUBSIDIARY LEGISLATION

THE LEGAL AID (GENERAL) REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Title
2. Interpretation
3. Practitioners' remuneration
4. Legal aid committee
5. Applications to legal aid committee

6. Duties of secretary
7. Application made other than through legal aid committee
8. How application is to be made
9. Remuneration to members of legal aid committee
10. Alteration of conditions under which legal aid was granted
11. Effect of termination of legal aid
12. Ascertainment of means
13. Contributions to legal aid
14. Clients' account
15. Applications on behalf of infants or other persons under disability
16. Grant of legal aid
17. Reports and information to be furnished to Director
18. Saving as regards matters not provided for
19. Prescribed forms

SCHEDULE-Prescribed forms

SECTION 25-THE LEGAL AID (GENERAL) REGULATIONS

Regulations by the Minister Statutory Instrument

264 of 1967

Act No.

13 of 1994

1. These Regulations may be cited as the Legal Aid (General) Regulations. Title

2. In these Regulations, unless the context otherwise requires- Interpretation

"appropriate legal aid committee" means the legal aid committee of the District in which the applicant for legal aid resides or the legal aid committee of an adjoining District or any legal aid committee to which an application is referred by the Director under the provisions of regulation 7;

"factories inspector" means any person appointed an inspector under the provisions of section six of the Factories Act; Cap. 417

"labour officer" means any person appointed or deemed to have been appointed as a labour officer under the provisions of section four of the Employment Act, and includes the Principal Labour Officer, a senior labour officer, an Administrative Officer, a senior labour assistant and a labour assistant; Cap.

268

"secretary" means the secretary of an appropriate legal aid committee;

"social welfare officer" includes any Senior Social Welfare Officer, District Social Welfare Officer, Assistant Social Welfare Officer, or any person performing the duties of an Assistant Social Welfare Officer;

"Worker's Compensation Commissioner" means the Worker's Compensation Commissioner appointed under the provisions of section thirteen of the Workmen's Compensation Act. Cap. 271

3. The remuneration to be paid to a practitioner under section six (2) of the Act shall be as set out in the First Schedule. Practitioners' remuneration

4. Every legal aid committee established under the Act shall consist of the District Secretary, who shall be secretary to the committee, and such other persons resident in the District, not exceeding six in number, as the Minister may, by Gazette notice, appoint. Legal aid committee

5. (1) An application for legal aid may be made to any member of an appropriate legal aid committee. Applications to legal aid committee

(2) Whenever application is made to a member of a legal aid committee under the provisions of sub-regulation (1), the member shall, where necessary, assist the applicant to complete the prescribed form and shall state whether he has good reason to believe that the statements concerning the applicant's means made therein are true.

(3) Every such application shall, where it is made to a member other than the secretary, be forwarded by the member to the secretary.

6. (1) The secretary shall forward every application made to him or received by him to the Director with a statement whether or not he recommends the application. If the secretary does not recommend the application, he shall state his reasons for such refusal. Duties of secretary

(2) The secretary may, if he thinks fit, for the purpose of making a recommendation under the provisions of sub-regulation (1), consult with any one or more members of the committee.

7. (1) Nothing in these Regulations shall be deemed to prohibit any person, and in particular any practitioner, from recommending to the Director any applicant or prospective applicant, who appears to such person to be in need of legal aid. Application made other than through legal aid committee

(2) Where a recommendation in terms of sub-regulation (1) or an application for legal aid is made, other than through a legal aid committee, the Director may, if he thinks fit, refer the recommendation or application to an appropriate legal aid committee for such advice or information as he deems necessary.

8. (1) Every application for legal aid shall be in writing, and shall contain such information, and be accompanied by such documents as may be requisite to enable the appropriate legal aid committee—How application is to be made

(a) to assess the means of the applicant; and

(b) to make recommendation to the Director for the grant or refusal of legal aid.

(2) The information referred to in sub-regulation (1) shall be sufficiently detailed to enable the Director to determine-

(a) the nature of the proceedings, claim or matter in relation to which legal aid is sought;

(b) the circumstances in which legal aid is sought;

(c) the question whether legal aid ought to be granted or not;

(d) the applicant's means and contribution to be made by him, if any.

(3) The Director or the secretary of an appropriate legal aid committee may require any applicant to attend an oral interview for the purpose of-

(a) clarifying information already submitted; or

(b) providing further information.

(4) Where, in the opinion of the Director, compliance with the provisions of this regulation would cause difficulty, inconvenience or delay, the Director may accept an application presented in any form he deems sufficient in the circumstances.

9. No member of a legal aid committee shall be entitled to be remunerated for his services as such member; but a member who is not a public officer and who would otherwise not be entitled to a refund of expenses incurred in the discharge of his functions under these Regulations shall be reimbursed such expenses. Remuneration to members of legal aid committee

10. (1) Where the Director terminates legal aid under section twenty-two of the Act, he may invite the party affected to make a fresh application on such altered conditions as the Director deems appropriate. Alteration of conditions under which legal aid was granted

(2) Whenever the circumstances of any legally aided person have altered so that his means have, since the date on which he was granted legal aid, increased, he shall forthwith inform the Director of such alteration in his circumstances.

11. (1) Where legal aid is terminated, the person granted legal aid shall, as from the date of the termination, cease to be entitled to any further assistance in the cause or matter in respect of which legal aid was granted. Effect of termination of legal aid

(2) Where legal aid is terminated because the person granted legal aid has-

(a) wilfully failed to comply with any requirement as to the information to be given by him; or

(b) knowingly made a false statement or representation in giving any information; or

(c) wilfully failed to do anything reasonably required to be done by him under the provisions of the Act or these Regulations;

he shall not be entitled to recover any contribution or portion thereof paid by

him; and, further, he shall remain liable to pay to the Director the balance of any contribution still outstanding.

(3) Where legal aid is terminated in the circumstances mentioned in sub-regulation (2), the retainer to any practitioner instructed on behalf of a person granted legal aid shall, except where the Director otherwise decides, cease and determine.

12. In assessing the means of an applicant for legal aid-

(a) there shall be left out of account any income tax or personal tax paid or payable on income treated for the purpose of granting legal aid under the provisions of the Act or these Regulations as the income of the applicant;

(b) there shall be allowed-Ascertainment of means

(i) K400 in respect of the applicant's living expenses;

(ii) K100 in respect of any wife or child of his maintained by him;

(iii) K50 in respect of any other person maintained by him.

13. (1) Contributions to legal aid shall not exceed-Contributions to legal aid

(a) in a civil cause or matter-

(i) the taxed costs in the proceedings to which the application relates, except that the Director may assess such contribution to approximate as nearly as possible to the costs that might be recovered on taxation; or

(ii) one-third of what remains of the income of the applicant after the deductions and allowances referred to in regulation 12 have been made;

whichever is the lesser amount;

(b) in any criminal cause or matter, the fees prescribed under regulation 3.

(2) Any contribution made in terms of paragraph (b) of sub-regulation (1) shall be paid into and shall form part of the general revenues of the Republic.

(3) When a contribution under section seventeen of the Act is to be made, that contribution shall be paid within thirty days from the date on which the order for contribution was made, unless the Director specifies a longer period.

(4) Subject to the provisions of this regulation, contributions may be paid by such instalments as the Director may in each case determine.

14. (1) The Director shall maintain a clients' account at the Bank of Zambia, or such other bank as the Minister may specify. Clients' account

(2) The following moneys shall be paid into the clients' account:

(a) all contributions made in civil cases; and

(b) the proceeds of any judgment, order or compromise recovered on behalf of any person to whom legal aid is granted.

(3) There shall, on the instructions of the Director, be paid out of the clients' account-

(a) such cash disbursements as might be necessary for the prosecution of the proceedings to which the account relates;

(b) the proceeds of any judgment, order or compromise which are properly payable to the person granted legal aid;

(c) any portion of a person's contribution which is refunded to him.

(4) Any unexpended sum remaining to the credit of a client's account on the termination of legal aid shall be paid into and shall form part of the general revenues of the Republic.

15. (1) Subject to the provisions of the Act and of these Regulations, an application for legal aid in respect of an infant or other person under disability shall be made on his behalf by a person of full age and capacity, and, where the application relates to proceedings which are required by rules of court to be brought or defended by a next friend or guardian ad litem, that person shall be the next friend or guardian ad litem, or, where the application relates to proceedings and they have not actually begun or to any claim, a person who, subject to any contrary order of the court, intends to act in either capacity when the proceedings begin or if the question of taking them were to arise. Applications on behalf of infants or other persons under disability

(2) The person by whom the infant or person under disability applies for legal aid shall, for all purposes, be treated as an agent of the infant or person under disability and such person shall be deemed to have assumed all the obligations for which the infant or person under disability is liable under the Act and these Regulations:

Provided that the Director may in his discretion waive any obligation.

16. The Director may, in granting legal aid in any civil cause or matter, limit the grant to advice only or to any one or more steps to assert or dispute a claim; and, unless otherwise stated, the grant shall not be deemed to extend to any appeal (other than an interlocutory appeal) arising out of the proceedings in respect of which legal aid was granted. Grant of legal aid

17. (1) Whenever-Reports and information to be furnished to Director

(a) any labour officer or factory inspector is acting in any matter in connection with which an employee may have a right to civil redress under any written law; or

(b) any social welfare officer is acting in any matter in connection with which any person may have a right to civil redress or a right enforceable by summary proceedings in any court; or

(c) the Workers' Compensation Commissioner is acting in any matter under and by virtue of the Workers' Compensation Act in connection with which an employee or worker may have a right to civil redress independently of a claim under the Workers' Compensation Act;

such labour officer, factory inspector, social welfare officer or the Workers' Compensation Commissioner, as the case may be, may make a report to the Director

setting out the circumstances in which such right has arisen. Cap. 271

(2) Without prejudice to the generality of the foregoing, the Workers' Compensation Commissioner shall report to the Director under sub-regulation (1)-

(a) all claims involving death or permanent disability;

(b) all claims which are not remediable under the Worker's Compensation Act; Cap. 271

(c) any claim in which the owner or driver of a motor vehicle is involved.

18. In any matter not provided for by these Regulations, the Director may adopt such course as appears best calculated to achieve or promote the objects of the Act. Saving as regards matters not provided for

19. The forms in the Schedule shall be used wherever applicable with such variation as circumstances may require. Prescribed forms

SCHEDULE

(Regulation 19)

PRESCRIBED FORMS

FORM 1 (CRIMINAL) L.A.

THE LEGAL AID ACT

(Section 8 (1))

DEFENCE CERTIFICATE

Criminal Cause No

IN THE SUBORDINATE COURT of the class for the District, holden at

THE PEOPLE

versus

.....

To: The Director of Legal Aid.

I certify that

(insert name of person charged)

of and whose address is

(village or town)

being a person

(postal address)

who is committed by me for trial by the High Court for the offence of has been examined by me as to his means and it appears that he has insufficient means to afford the services of a practitioner.

I have this day granted him this legal aid certificate.

The prisoner is remanded on bail/in custody at the prison.

Dated the day of, 19.....

(Senior/Resident Magistrate)

FORM 2 (CRIMINAL) L.A.

THE LEGAL AID ACT

(Section 8 (2))

DEFENCE CERTIFICATE

Criminal Cause No

IN THE HIGH COURT FOR ZAMBIA

THE PEOPLE

versus

.....

To: The Director of Legal Aid.

of

(insert full name of person charged)

who is remanded on bail/
in custody at prison and who has been
committed for trial before this Court for the offence of
is unrepresented. It appears to the Court that
there is insufficient reason why a defence certificate should not be granted to
the person charged. I, a Judge of the High Court, hereby grant this legal aid
certificate.

Dated the day of, 19.....

Judge

FORM 3 (CRIMINAL) L.A.

THE LEGAL AID ACT

(Section 9 (1) (a) (i))

DEFENCE CERTIFICATE

Criminal Cause No

IN THE SUBORDINATE COURT of the class for the District holden at

THE PEOPLE

versus

.....

To: The Director of Legal Aid.

I certify that

(full name of person charged)

of being a person charged

(town or village)

before this court with the specified offence of has been examined by me as to his means and it appears that he has insufficient means to obtain the services of a legal practitioner to represent him at his trial.

I have this day granted him this legal aid certificate.

The person charged is remanded on bail/in custody at the prison.

Dated the day of, 19.....

(Senior/Resident Magistrate)

FORM 4 (CRIMINAL) L.A.

THE LEGAL AID ACT

(Section 9 (1) (a) (ii))

DEFENCE CERTIFICATE

Criminal Cause No

IN THE SUBORDINATE COURT of the class for the District, holden at

THE PEOPLE

versus

.....

To: The Director of Legal Aid.

I certify that of

(full name of person charged)

(town or village)

..... being a person charged before this court with the offence of has been examined by me as to his means and it appears that he has insufficient means to enable him to obtain the services of a legal practitioner to represent him at his trial;

AND, further, having regard to all the circumstances of the case, it is desirable in the interests of justice that the accused should have legal aid.

I have this day granted him this legal aid certificate.

Dated the day of, 19.....

(Senior/Resident Magistrate)

FORM 5 (CRIMINAL) L.A.

THE LEGAL AID ACT

(Section 9 (2))

DEFENCE CERTIFICATE

Criminal Cause No

IN THE SUBORDINATE COURT of the class for the
..... District, holden at

THE PEOPLE

versus

.....

To: The Director of Legal Aid.

I certify that of

(insert full name of person charged)

and whose address is

(village or town)

being a person

(postal address)

charged with the offence of
into which charge a preliminary inquiry is being held has been examined by me as
to his means which appear insufficient to enable him to engage a practitioner to
represent him;

AND, further, having regard to all the circumstances of the case, it appears
desirable in the interests of justice that the accused should be represented by
a practitioner at the inquiry.

I hereby recommend that the accused be granted legal aid.

The person charged is remanded on bail/in custody at the
..... prison.

Dated the .day of ,
19.....

(Senior/Resident Magistrate)

FORM 6 (CRIMINAL) L.A.

THE LEGAL AID ACT

(Section 10 (3))

APPLICATION FOR LEGAL AID

To: The Director of Legal Aid.

I of

(full name of applicant)

having been charged with the offence of
and being now a prisoner at
/remanded on bail* hereby apply for legal aid.

I declare that I am employed at/unemployed/was at the time of my arrest (but
no longer) employed
at*

I am/was* in receipt of wages/salary* at the rate of
per month.

I own property to the value of

I have not applied to any court for legal aid/I have been refused a defence
certificate by the Senior/Resident Magistrate.*

(Applicant)

(FOR DEPARTMENTAL USE)

Legal aid granted/refused* subject to a contribution of fee
units

Contribution of fee units paid/agreed* to be paid on

No. of official receipt

Signature of receiving officer

* Delete whichever is inapplicable.

(As amended by Act No. 13 of 1994)

FORM 7 (CIVIL) L.A.

THE LEGAL AID ACT

(Section 11)

APPLICATION FOR LEGAL AID

(CIVIL FORM)

NOTE.-If you have difficulty in filling in this form, ask any member of a legal aid committee in your District or your friend to help you.

To: The Director of Legal Aid.

(a) Full name (1) (a) I Mr./Mrs./Miss
Address (in BLOCK CAPITALS) of

(b) If the same write "as above" (whose permanent address is) (b)

born on the day of
, 19.....
Occupation

(c) State the kind of legal aid you Apply for legal aid under the
provisions require. If court proceedings have begun of the Legal Aid Act, as
follows: follows: (c)
or an appeal is involved make this quite clear.

(2) My opponent(s) is/are:

Name	Address	Occupation	(if known)
.....	
.....	
.....	
.....	
.....	

(d) Here write down the documents you (3) I send herewith the following
enclose. If you have witnesses' statements, documents (N.B.-Read
sidenote (d) before completing this.)
letters and papers relating to the matter,

and if court proceedings have begun, all court papers in your possession and also names of witnesses must be included.

(4) (a) Have you previously applied for legal aid in any other matter?

(b) Have you previously applied for legal aid in this matter?

(c) Are you covered by insurance in respect of this matter? If so, give details.

(d) Has any attempt been made to settle the matter? If so, give details and enclose correspondence, especially if there has been correspondence with an Insurance Company.

(5) I understand that if legal aid is granted I may be required to make a contribution towards my costs.

(6) I undertake to supply any further information needed by the Director of Legal Aid in connection with my case, and to attend at any office of the Directorate of Legal Aid if and when required and to supply such evidence of my means as may be required.

(7) Further, I undertake to inform the Director of Legal Aid should the circumstances of my means alter for the better during the course of the proceedings for which I was granted legal aid.

(8) I understand that when a court awards costs in proceedings for which legal aid was granted, such costs shall be paid to the Director of Legal Aid who shall give good discharge for costs so payable.

(9) I authorise the Director of Legal Aid to take any step deemed necessary to procure an adjournment of proceedings or any forbearance on the part of any opponent to enable this application to be dealt with, but I understand that unless I am expressly informed to the contrary, my case (if proceedings have begun) will continue in accordance with any notice as to hearing or otherwise that I may have received.

(10) I declare that the information set out above and the statement of my case that follows are, to the best of my knowledge, information and belief, true. And I further declare that I am employed at/unemployed*

and that my salary/wages* are per week/per month*. I possess real and personal property to the value of K excepting my dwelling-house, household furniture and effects and the tools and implements of my trade, as stated hereunder:

- 1.
- 2.
- 3.
- 4.

(Usual signature or thumbprint)

(Witness)

Date

* Delete words not applicable.

FULL STATEMENT OF MY CASE

(Give details where possible. If personal injuries are involved give full details of the accident and of the injuries suffered and enclose Police Report where applicable.)

(Usual signature or thumbprint)

Date

(Continue, if necessary, on next page, signing and dating the page)

(Usual signature or thumbprint)

Date

(Continue, if necessary, on next page, signing and dating the page)

FORM 8 (CRIMINAL APPEAL) L.A.

THE LEGAL AID ACT

(Section 14 (a) and (b))

APPLICATION FOR LEGAL AID

To: The Director of Legal Aid.

I

(full name of applicant)

of having been convicted of the offence of and sentenced to on the day of , 19..... by the subordinate court/High Court* sitting at and being now a prisoner at . prison/on bail* hereby apply for legal aid to prosecute my appeal against conviction/sentence/conviction and sentence*.

I declare that I am employed at/unemployed/was at the time of my arrest (but no longer) employed at*

I am/was* in receipt of wages/salary* at the rate of per month.

I own property to the value of

(Applicant)

(FOR DEPARTMENTAL USE)

Legal aid granted/refused* subject to a contribution of* fee units

Contribution of fee units paid/agreed to be paid on

No. of official receipt

Signature of receiving officer

* Delete words not applicable.

(As amended by Act No. 13 of 1994)

FORM 9 (GENERAL) L.A.

THE LEGAL AID ACT

(Sections 11 and 14)

APPLICATION FOR LEGAL AID

(for completion by Legal Aid Committee)

To: The Director of Legal Aid.

I have seen the application for legal aid dated the _____ day of _____, 19..... by Mr./Mrs./Miss* which is attached hereto.

I have good reason to believe that the statements made therein concerning the applicant's means are true (or as the case may be).

Dated at _____ on this _____ day of _____, 19.....

Member of Legal Aid Committee for the District of

We hereby recommend/do not recommend* the application for the following reasons:

Dated at _____ on this _____ day of _____, 19.....

Secretary of Legal Aid Committee for the District of

* Delete words not applicable.

If the member has reason to believe that any statement made is not true, particulars must be given.

SECTION 25-THE HIGH COURT (LEGAL AID) (PRACTICE AND PROCEDURE)
REGULATIONS Statutory Instrument
379 of 1967

Regulations by the Minister

1. These Regulations may be cited as the High Court (Legal Aid) (Practice and Procedure) Regulations. Title

2. In these Regulations, unless the context otherwise requires- Interpretation

"Director" means the Director of Legal Aid;

"legally aided person" means a person granted legal aid under the provisions of the Act.

3. The Director or any practitioner instructed on behalf of any legally aided person shall, when he commences to act on behalf of such person in any civil proceedings in the Court, file a notice to that effect in Form 1 in the Schedule and shall serve a copy of the notice to every party to the proceedings. Notice of termination of legal aid

4. Where proceedings are pending before any court in which any of the parties are legally aided and legal aid has been terminated under the provisions of section twenty-two of the Act, the Director shall file a notice of the termination of legal aid in Form 3 in the Schedule and serve a copy thereof on every party to the proceedings. Notice of termination of legal aid

5. (1) The Director or any practitioner acting on behalf of a legally aided person shall before trial file a certificate of the assessment by the Director of the means of a legally aided person, together with an affidavit sworn by the legally aided person setting out his income from all sources and other facts relevant to the determination of his means for the purposes of the Act, and a certificate of the contribution required by the Director under section seventeen of the Act. A copy of any document so filed shall be served on every party to the proceedings. Certificate of assessment of means

(2) Where the scope or conditions under which legal aid was granted has been altered under the provisions of regulation 10(1) of the Legal Aid (General) Regulations, no termination of legal aid need be filed by the Director or the practitioner acting on behalf of a legally aided person, but there shall be filed a notice in Form 2 in the Schedule setting out such altered scope or conditions, and a copy of such notice shall be served on every party to the proceedings.

6. Every document filed or exhibited in any court under the provisions of these Regulations shall be part of the record of the court. Documents filed or exhibited

7. Save as is otherwise provided for by or under the Act or by these Regulations, in any proceedings in any court to which a legally aided person is a party the court shall make such order as to any matter of practice or procedure as it thinks just. Savings as regards matters not provided for

8. The forms in the Schedule or forms to the like effect may be used for the

purpose of giving any notice under these Regulations.Prescribed forms

SCHEDULE

(Regulation 8)

PRESCRIBED FORMS

FORM 1

(Regulation 3)

THE LEGAL AID ACT

NOTICE OF GRANT OF LEGAL AID

IN THE HIGH COURT FOR ZAMBIA (At the District Registry)

BETWEEN

Plaintiff

and

Defendant

or

In the matter of

TAKE NOTICE that legal aid under the provisions of the above mentioned Act has been granted to in connection with the following proceedings:

TAKE FURTHER NOTICE that in consequence thereof the in these proceedings has been from the day of 19 , a legally aided person under and by virtue of the aforesaid Act and the Regulations made thereunder.

Dated the day of
, 19

Director of Legal Aid
(or legal practitioner for the
)

FORM 2

(Regulation 5)

THE LEGAL AID (GENERAL) REGULATIONS

NOTICE OF ALTERATION OF SCOPE

OR

CONDITIONS OF LEGAL AID

(General Title)

TAKE NOTICE that the scope and conditions of the grant of legal aid to
..... the above named
has been altered under the provisions of regulation 10 (1) of the Legal Aid
(General) Regulations as follows

Dated the

19

day of,

Director of Legal Aid

REPUBLIC OF ZAMBIA

THE NOTARIES PUBLIC AND NOTARIAL FUNCTIONS ACT

CHAPTER 35 OF THE LAWS OF ZAMBIA

CHAPTER 35 THE NOTARIES PUBLIC AND NOTARIAL FUNCTIONS ACT CHAPTER 35

THE NOTARIES PUBLIC AND NOTARIAL
FUNCTIONS ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

APPOINTMENT AND ENROLMENT OF NOTARIES PUBLIC

3. Appointment of notaries public
4. Admission fee
5. Enrolment
6. Notarial seal

PART III

FUNCTIONS AND DUTIES OF NOTARIES PUBLIC

7. Functions of notaries public
8. Notary to refuse to act in certain case; subject to appeal to Court
9. Duty of notary in case of refusal
10. Jurat to state when oath is taken
11. Notary not to act when interested

PART IV

PERSONS OTHER THAN NOTARIES PUBLIC AUTHORISED TO
PERFORM NOTARIAL FUNCTION

12. Magistrates to have limited powers of notaries public

13. Notarial powers of certain customs officers
14. Seal of person acting ex officio
15. Ambassadors, consuls, etc., abroad to have powers of notaries public
16. Persons performing notarial functions ex officio officers of Court
17. Act not to affect powers elsewhere conferred

PART V

FEES FOR NOTARIAL SERVICES

Section

18. Prescribed fees
19. Notarial fees of public and local officers, customs officers and magistrates

PART VI

REVOCAION OF APPOINTMENT AND SUSPENSION OF NOTARIES PUBLIC, AND REVISION OF ROLL

20. Revocation of appointment of notaries public
21. Suspension of notaries public
22. Revision of Roll
23. General power of Chief Justice to restore name to Roll

PART VII

OFFENCES

24. Unqualified persons acting as notaries
25. Notary acting during suspension, an offence
26. Notary public acting after being removed or struck off, an offence
27. Miffeasance
28. Contempt of court

PART VIII

MISCELLANEOUS

29. Existing notaries
30. Roll of Notaries Public

31. State Counsel for Zambia not to act as notaries public

32. Rules

FIRST SCHEDULE-Oath of office and affirmation of office

SECOND SCHEDULE-Fees for notarial services

CHAPTER 35

NOTARIES PUBLIC AND NOTARIAL FUNCTIONS

An Act to make better provision for the appointment and enrolment of notaries public; for the regulation of the duties of the office of notary public; for the empowering of magistrates, ambassadors and other specified public officers to perform specific notarial acts; and for matters incidental thereto and connected therewith.

[1st March, 1968]

40 of 1968

13 of 1994

Statutory Instrument

179 of 1990

PART I

PRELIMINARY

1. This Act may be cited as the Notaries Public and Notarial Functions Act. Short title

2. In this Act, unless the context otherwise requires- Interpretation

"authorised person" means a person empowered to exercise notarial functions under Part IV;

"the Court" means the High Court for Zambia;

"the Registrar" means the Registrar of the High Court and shall include the Deputy Registrar thereof;

"the Roll" means the list of notaries public kept by the Registrar for the purposes of this Act pursuant to section thirty.

"the Association" means the Law Association of Zambia established by section three of the Law Association of Zambia Act; Cap. 31

"State Counsel for Zambia" has the meaning attributed to it by section two of the Legal Practitioners Act. Cap. 30

PART II

APPOINTMENT AND ENROLMENT OF NOTARIES PUBLIC

3. (1) The Chief Justice may, by instrument under his hand, appoint as a notary public any legal practitioner who has, for a period of not less than five years immediately preceding his application for appointment as a notary public, been engaged in the practice of law in Zambia:Appointment of notaries public

Provided that the Chief Justice, in his discretion and for good cause shown, may appoint a legal practitioner as a notary public notwithstanding that such practitioner has been engaged in the practice of law in Zambia for a period less than five years.

(2) For the purposes of this section, "the practice of law" includes active employment in a judicial or legal capacity in the Judicial Department, the Attorney-General's Chambers the Lands Department, the Department of the Director of Legal Aid or the Administrator-General's Department, or in such other department of Government or of any municipal, township or rural council as the Minister may, by statutory instrument, prescribe.

4. Every person appointed as a notary public pursuant to section three shall pay to the Association the sum of three hundred and seventy-five fee units in respect of such appointment.

(As amended by Act No. 13 of 1994)Admission fee

5. (1) Upon production to the Registrar of-Enrolment

(a) an instrument of appointment signed by the Chief Justice; and

(b) a receipt from the Association acknowledging payment of the fee prescribed by section four;

and upon the person appointed taking and subscribing before the said Registrar the oath or making the affirmation in lieu thereof set out in the First Schedule, the Registrar shall cause the name of the person appointed to be entered in the Roll, pursuant to section thirty, and the said person appointed shall thereupon sign the said Roll in the presence of the said Registrar.

(2) Every person so enrolled shall be entitled to a certificate of enrolment under the seal of the Court.

6. Every notary public appointed under this Act shall have an embossed official seal of a design approved by the Chief Justice.Notarial seal

PART III

FUNCTIONS AND DUTIES OF NOTARIES PUBLIC

7. A notary public may-

(a) verify, authenticate and attest, by his official seal, the execution of deeds and other documents, contracts and powers of attorney;

(b) verify, by his official seal, translations of documents in any Zambian or foreign language into the English language or vice versa;

(c) present inland or foreign bills of exchange for payment, note the same if the bill is not accepted or paid, and amplify or extend such noting by preparing and signing the protest, whenever, under the Bills of Exchange Acts, 1882 to

1917, of the United Kingdom, or any Act replacing or amending the same, it is required that such transaction be performed by a notary public;

(d) under his official seal, note, amplify or extend, prepare, sign and seal protests concerning demurrage, and other ships' protests;

(e) superintend the drawing by lot of bonds of foreign States or corporations redeemable by drawings on fixed dates, and certify under his official seal the numbers of the bonds so drawn;

(f) as a notary public, administer oaths and affirmations; prepare and take affidavits and declarations; take declarations in lieu of oaths; take declarations, oaths and affidavits relating to stamp and other duties; take declarations in actions pending in any Commonwealth country relating to debt, where one of the parties is resident in Zambia, or relating to real property situate in such Commonwealth country;

(g) as a notary public, take a declaration by the attesting witness of a will or deed or by any other competent person to prove the due execution thereof;

(h) perform any function he is empowered, required or permitted to perform as a notary public under any written law;

(i) perform any function customarily performed by a notary public. Functions of notaries public

8. (1) In any case where the circumstances shall appear to a notary public to be suspicious or not warranting the protest or other notarial act demanded, the said notary shall refuse to act. Notary to refuse to act in certain cases; subject to appeal to Court

(2) Any person who considers himself aggrieved by such refusal may apply to the Chief Justice, or in his absence any puisne Judge, for an order directing the said notary to act in execution of his office.

(3) Before applying for an order pursuant to subsection (2), the applicant shall cause reasonable notice of the application to be given to the said notary public and to such other persons in Zambia, if any, as may be interested in the subject of the protest or other notarial act demanded.

(4) Upon receipt of any application pursuant to subsection (2), the Chief Justice or Judge to whom the application is being made may require the said notary public either to furnish a statement in writing of his reasons for refusing to act or to attend in person at the hearing of the application and give his reasons for such refusal, and any person who is interested shall be entitled to be heard by the Chief Justice or Judge, as the case may be.

9. Whenever a notary public shall refuse to act as aforesaid he shall mark upon the document in respect of which the protest or other notarial act is demanded his refusal, his signature and the date of his refusal. Duty of notary in case of refusal

10. Every notary public before whom any oath, affirmation, affidavit or declaration is made under this Act or any other written law shall truly state in the jurat of attestation at which place and on what date the oath, affirmation, affidavit or declaration is taken or made. Jurat to state when oath is taken

11. No notary public or authorised person shall exercise any notarial functions in any proceedings or matter in which he, or his partner, or his employer is interested either personally or as a legal practitioner on behalf of any of the parties:Notary not to act when interested

Provided that this section shall not apply to a notary public or authorized person who is not personally interested in the proceedings or matter, but who is employed in a department of Government or by a municipal, township or rural council which is officially interested therein.

PART IV

PERSONS OTHER THAN NOTARIES PUBLIC AUTHORISED TO PERFORM NOTARIAL FUNCTIONS

12. Every senior resident magistrate and every resident magistrate may exercise and perform the functions and duties of a notary public appointed pursuant to section three in respect of the certification of acts of honour, the authentication of deeds and other documents, the certification of deeds and other documents, and the attestation of deeds and other documents:Magistrates to have limited powers of notaries public

Provided that he shall not ordinarily exercise any such function or duty unless he is satisfied that the services of a notary public cannot be obtained at the time when and place where the said function or duty is required to be performed.

13. Any proper officer of the Department of Customs and Excise for the time being in charge of any port under and for the purposes of the Customs and Excise Act may exercise and perform the functions of a notary public in respect of minuting, noting or extending ships' protests, and in such respect only:Notarial powers of certain customs officers.

Cap. 322

Provided that any such officer shall not ordinarily exercise any of such functions unless he is satisfied that the services of a notary public appointed pursuant to section three cannot be obtained at the time when and the port where the said function is required to be performed.

14. Any person exercising any notarial functions under the provisions of section twelve or thirteen shall use a seal bearing thereon the title of his office and in addition the words "Notary Public ex officio".Seal of person acting ex officio

15. (1) Every ambassador and High Commissioner of the Republic of Zambia and every envoy, minister and charge d'affaires thereof, and every secretary of an embassy or legation of the Republic of Zambia, exercising his functions in any Commonwealth or foreign country, and every consul-general, consul, vice-consul, pro-consul, consular agent, acting consul-general, acting consul, acting vice-consul and acting consular agent exercising his functions in any Commonwealth or foreign place may, in that country or place, administer any oath or affirmation or take any affidavit or declaration, and also do any notarial act which any notary public can do within Zambia; and every oath, affirmation, affidavit, declaration and notarial act administered, sworn or done by or before any such person shall be as effectual as if duly administered, sworn or done by or before any lawful authority in Zambia.Ambassadors, consuls, etc., abroad to have powers of notaries public

(2) Any document purporting to have affixed, impressed or subscribed thereon or

thereto the seal and signature of any person authorized by this section to administer an oath or affirmation in testimony of any oath, affirmation, affidavit or act being administered, taken or done by or before him, shall be admitted in evidence without proof of the seal or signature being the seal or signature of that person, or of the official character of that person.

16. Any person exercising any notarial functions under the provisions of section twelve, thirteen or fifteen shall, in the exercise of such functions, be deemed to be an officer of the Court. Persons performing notarial functions ex officio officers of Court

17. Nothing in this Act contained shall be construed as affecting the functions conferred upon any person under the Commissioners for Oaths Act or any other written law with reference to the administering of lawful oaths and the taking of lawful affirmations, declarations and affidavits. Act not to affect powers elsewhere conferred.
Cap. 33

PART V

FEES FOR NOTARIAL SERVICES

18. (1) The fees for discharging the functions and duties of a notary public shall be as specified in the Second Schedule. Prescribed fees

(2) The Chief Justice may, by rule made by statutory instrument, alter or revoke the fees prescribed in the Second Schedule.

19. (1) Any fees received for the discharge of notarial functions or duties by any notary public, who is a public officer or local government officer in full-time employment as such, shall form part of the general revenues of the Republic or the general fund of the council, as the case may be. Notarial fees of public and local officers, customs officers and magistrates

(2) Any fees received by any proper officer of the Department of Customs and Excise for the discharge of any notarial function pursuant to section thirteen shall form part of the general revenues of the Republic.

(3) Where any senior resident magistrate or resident magistrate discharges any notarial function or duty pursuant to section twelve, the payment of the fee in respect of such function or duty shall be denoted by affixing to the document authenticated, certified or attested.

PART VI

REVOCATION OF APPOINTMENT AND SUSPENSION OF NOTARIES PUBLIC, AND REVISION OF ROLL

20. (1) The Chief Justice may revoke the appointment of any notary public who-Revocation of appointment of notaries public

(a) has been convicted of an offence under this Act; or

(b) has been convicted of an offence under any other written law and sentenced therefor to imprisonment for a term of not less than six months without the option of a fine; or

(c) has been adjudged guilty of misconduct in his capacity as a legal practitioner, pursuant to the provisions of Part IV of the Legal Practitioners Act.Cap. 30

(2) Where any notary public is convicted of an offence under this Act, or is convicted of an offence under any other written law and is sentenced therefor to imprisonment for a term not exceeding six months without the option of a fine, the Judge or magistrate before whom he is convicted shall make a report thereof to the Chief Justice setting out the date of conviction, the nature of the offence, a summary of the facts constituting the said offence, and the sentence imposed.

(3) Upon the revocation of the appointment of any notary public by the Chief Justice, the Registrar shall remove the name of the said notary public from the Roll.

21. Any Judge may suspend a notary public temporarily from practising as a notary public pending the result of any prosecution for an offence against this or any other written law, or pending the determination of any proceedings brought against him under and by virtue of Part IV of the Legal Practitioners Act.Revocation of appointment of notaries public
Cap. 30

22. (1) Where the Registrar has reason to believe that a notary public whose name is on the Roll is dead, or has left Zambia and does not intend to return, he shall publish in the Gazette a notice to the effect that unless the said notary public shall show cause to the contrary his name will be removed from the Roll on a date to be specified in the notice, not being less than three months from the date of publication of the notice, and, on the date specified, if cause has not been shown to the contrary, the Registrar shall remove the name of the said notary public from the Roll.Revision of Roll

(2) After the name of a notary public has been removed from the Roll pursuant to subsection (1), the Registrar shall, if possible, inform the notary, by notice sent by post addressed to him at the address appearing in the Roll, that his name has been removed from the Roll and the date of such removal.

(3) Any notary public whose name has been removed from the Roll pursuant to subsection (1) may, within six months from the date of such removal, apply to the Chief Justice for the restoration of his name to the said Roll, and, if the Chief Justice so orders, the name of the said notary public shall be restored to the Roll by the Registrar.

(4) Where the name of a notary public has been restored to the Roll pursuant to subsection (3), such restoration shall be retrospective in its effect to the date of the removal of such name from the Roll.

23. (1) Notwithstanding any other provision of this Act, but subject to the provisions of subsection (2), the Chief Justice may in his absolute discretion order the name of any notary public which has been struck off or removed from the Roll to be restored thereto, and from the date of such order the said notary public shall be entitled to perform all the functions of his office as such.General power of Chief Justice to restore name to Roll

(2) The Chief Justice shall not make any order pursuant to subsection (1) in respect of any person whose name has been removed from the Roll of Legal Practitioners pursuant to disciplinary proceedings under Part IV of the Legal

Practitioners Act, and has not been restored thereto. Cap. 30

PART VII

OFFENCES

24. Any person, not appointed and enrolled, or deemed to be appointed and enrolled, as a notary public under this Act, who acts or purports to act in the capacity of notary public shall be liable to a fine not exceeding three thousand penalty units or to imprisonment for a term not exceeding six months, or to both: Unqualified persons acting as notaries

Provided that this section shall not apply to any person not so appointed or enrolled who performs notarial functions conferred upon him by virtue of section twelve, thirteen or fifteen, respectively, as the case may be.

(As amended by Act No. 13 of 1994)

25. Any notary public who is suspended from practice pursuant to section twenty-one and who, during the period of such suspension, does or purports to do any act in the capacity of notary public shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding one thousand five hundred penalty units or to a term of imprisonment not exceeding three months, or to both. Notary acting during suspension, an offence

(As amended by Act No. 13 of 1994)

26. Any person whose name has been removed from or struck off the Roll pursuant to section twenty or twenty-two, respectively, as the case may be, and who, while his name remains so removed from or struck off the said Roll, does or purports to do any act in the capacity of notary public shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding four thousand five hundred penalty units or to a term of imprisonment not exceeding nine months, or to both.

(As amended by Act No. 13 of 1994) Notary public acting after being removed or struck off, an offence

27. Any notary public or other person who wilfully certifies or propounds any false statement or document, or who fraudulently and with intent to deceive conceals, withholds or perverts any fact or document, pertinent to the subject of a protest or other notarial act, shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding fifteen thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(As amended by Act No. 13 of 1994) Misfeasance

28. When any act constituting an offence under this Act also constitutes a contempt of court, the provisions of this Part shall be deemed to be in addition to and not in derogation of the power of a court to punish for such contempt. Contempt of court

PART VIII

MISCELLANEOUS

29. Any notary public admitted to practice and enrolled as such under section

seven A of the Legal Practitioners Act, Chapter 144 of the 1965 Edition of the Laws, or under any other earlier relevant law, and who, on the commencement of this Act, is a legal practitioner resident in Zambia shall be deemed to have been appointed and enrolled as a notary public under and for the purposes of this Act. Existing notaries

30. (1) The Registrar shall keep and maintain a Roll of Notaries Public in which shall be entered-Roll of Notaries Public

(a) the name, address and signature of every person who is appointed a notary public under this Act;

(b) the name and address of every person deemed to have been appointed as a notary public under this Act, pursuant to section twenty-nine;

(c) in respect of every entry made under paragraph (b), a reference, by volume number and page, to the signed entry in the Roll of Legal Practitioners in respect of the admission of such person as a notary public under any earlier law;

(d) such other particulars as are prescribed pursuant to subsection (2).

(2) The Chief Justice may by rule made by statutory instrument, from time to time, prescribe the form of the said Roll and any particulars in respect of each notary public, in addition to his name and address, which shall be entered therein, and may, from time to time, in like manner, alter, amend or revoke any rule made pursuant to this subsection.

(3) It shall be the duty of every notary public promptly to notify the Registrar in writing of any change of address, and the Registrar shall enter any such change of address as soon as practicable in the appropriate place in the Roll.

(4) The Roll shall be kept in the office of the Registrar and shall be available for inspection by any person at all reasonable times during office hours.

(5) For the purposes of this section, "Roll of Legal Practitioners" means the Roll of Barristers, Solicitors and Notaries Public maintained in pursuance of the Legal Practitioners Act, or any other earlier relevant law. Cap. 30

31. Upon the grant to any notary public of Letters Patent of the rank and dignity of State Council for Zambia, the Chief Justice shall revoke his appointment as a notary public, whether made under this or any other prior law, and shall order his name to be removed from the Roll. State Counsel for Zambia not to act as notaries public

32. The Chief Justice may, from time to time, by rule made by statutory instrument, prescribe anything which is to be prescribed under this Act and in respect of which no other prescribing authority is specified, and in like manner, may, from time to time, make rules for the better carrying out of this Act and, without prejudice to the generality of the foregoing, such rules may make provision for-

(a) forms of applications for appointment, instruments of appointment, certificates of enrolment, complaints, reports, orders and directions and such other forms as the Chief Justice deems appropriate for the purposes of this Act;

(b) the form of the Roll of Notaries Public to be kept and maintained under this Act;

(c) limiting to specified municipal, township or rural areas the exercise of notarial functions by individual notaries public appointed under this Act;

(d) forms of records of notarial acts to be kept by notaries public;

(e) the professional practice and etiquette of notaries public and the discipline and control of notaries public in their professional activities as such;

(f) such other matters as the Chief Justice deems to be necessary and appropriate. Rules

FIRST SCHEDULE

(Section 5)

OATH OF OFFICE

I, A.B., do swear that I will faithfully exercise the office of a notary public; I will faithfully make contracts or instruments for or between any party or parties requiring the same, and I will not add or diminish anything without the knowledge and consent of such party or parties that may alter the substance of the fact: I will not make or attest any act, contract, or instrument in which I shall know there is violence or fraud; and in all things I will act uprightly and justly in the business of a notary public, according to the best of my skill and ability.

So help me God.

AFFIRMATION OF OFFICE

I, A.B., do solemnly and sincerely declare and affirm that I will faithfully exercise the office of a notary public; I will faithfully make contracts or instruments for or between any party or parties requiring the same, and I will not add or diminish anything without the knowledge and consent of such party or parties that may alter the substance of the fact: I will not make or attest any act, contract, or instrument in which I shall know there is violence or fraud; and in all things I will act uprightly and justly in the business of a notary public, according to the best of my skill and ability.

SECOND SCHEDULE

(Section 18)

FEEES FOR NOTARIAL SERVICES

A. NOTARIAL ATTESTATION Fees

1. For administering an oath or receiving a declaration of affirmation, without attestation or signature

2. For administering an oath, receiving a declaration of affirmation, with attestation or signature 45

3. For marking every exhibit or document annexed to an affidavit, declaration or affirmation 15

4. For signature attested by a Notary Public in any document not otherwise provided for in this Schedule 45

5. Declaration thereto for each additional notarial seal to the fastening 15

6. For marking document and attaching notarial seal to the fastening 18

7. For affixing notary signature, and seal if required, to any document not otherwise provided for in this Schedule 30

8. Preparing certificate or authentication or legislation of notary's signature and having the same sealed and signed by the Registrar of the High Court or by foreign consul 68

9. Attestation accompanied by explanation to female to secure that she is separately advised 68

B. ANTENUPTIAL CONTRACT

1. For preparing and attesting and, when required, completing by registration plain antenuptial contract with no settlement of property, including signed duplicate for wife, signed duplicate for husband and copy for deposit on registration-(minimum) 375

C. NOTING AND PROTESTING PROMISSORY NOTES AND BILLS OF EXCHANGE

Noting against One Party

1. Presentation Fee 38

2. Noting protest on Bill or Note 38

3. Noting in Book 38

4.	Notice	. . . . .	23
5.	Copy	. . . . .	8
6.	Serving Notice and Postage	. . . . .	30
7.	Extending Protest on Bill or Note	. . . . .	38

Noting against Two Parties

8.	Presentation Fee	. . . . .	60
9.	Noting Protest on Bill or Note	. . . . .	60
10.	Noting in Book	. . . . .	38
11.	Notices (two)	. . . . .	38
12.	Copies (two)	. . . . .	15
13.	Serving Notices and Postages	. . . . .	60
14.	Extending Protest on Bill or Note	. . . . .	60

Noting against more than Two Parties Fee on similar lines to the above Protesing

No extra fee is to be charged unless protest is drawn up in writing under special instructions to that effect

15.	Formal protest in writing made on special instructions by client	. . . . .	98
16.	Should the acceptor or drawer of a bill or note reside out of town and the notary have to present the bill or note a further Charge-		
	(a) For the first kilometre of journey	. . . . .	5
	(b) For every additional kilometre	. . . . .	2
17.	Minuting or Noting ships protest	. . . . .	68

18. Extending ship's protest 10

19. Furnishing copy of extended protest 38

20. Journeys necessarily incurred 45

D. TRANSLATIONS

1. For every page or part thereof 23

2. Attestation to translation 38

3. Translation of common attestation power of stocks 38

(As amended by S.I. Nos. 89 of 1980, No. 99 of 1986, No. 179 of 1990 and Act No. 13 of 1994)

SUBSIDIARY LEGISLATION

NOTARIES PUBLIC AND NOTARIAL FUNCTIONS CAP. 35

SECTION 32-THE NOTARIES PUBLIC RULES Statutory Instrument 427 of 1968

Rules by the Chief Justice

1. These Rules may be cited as the Notaries Public Rules. Title
2. The Roll of Notaries Public shall be in the form of a book or books of fifty double pages. The left-hand page shall be in four columns headed respectively as follows: Roll of Notaries Public
 1. Name.
 2. Address.
 3. Date of appointment.
 4. Any other particulars required by paragraphs (c) and (d) of section thirty (1) of the Act.

The right-hand page shall be in three columns headed respectively:

5. Signature of notary.
6. Signature of Registrar.
7. Sample Seal and High Court File No.
3. An application for appointment as a notary public shall be supported by an

affidavit verifying the facts upon which the application is founded.Appointment as notary public

4. An application for an order directing a notary public to act in execution of his office shall be supported by an affidavit verifying the facts upon which the application is founded.Order directing notary to act

5. The forms in the Schedule shall be used for the appropriate purposes thereof.Prescribed forms

SCHEDULE

(Rule 5)

PRESCRIBED FORMS

FORM 1

(Section 3 (1))

THE NOTARIES PUBLIC AND NOTARIAL FUNCTIONS ACT

INSTRUMENT OF APPOINTMENT

..... A B is hereby
appointed a notary public.

Chief Justice

.....(Date)

FORM 2
(Section 5(2))

THE NOTARIES PUBLIC AND NOTARIAL FUNCTIONS ACT

CERTIFICATE OF ENROLMENT

It is hereby certified that A.B. was on the day of
enrolled as a notary public.

Registrar

.....(Date)

(Seal of High
Court)

FORM 3

(Section 8 (2))

THE NOTARIES PUBLIC AND NOTARIAL FUNCTIONS ACT

FORM OF APPLICATION FOR ORDER DIRECTING NOTARY TO ACT

To the Chief Justice or Mr. Justice (as the case may be).

On the day of I (name of applicant) of

(address of applicant) requested

(name of notary) to perform the following notarial act/s:

.....(here set out statement of act requested).

2. The circumstances in which said request was made are as follows:

..... (here set out the facts).

3. The said (name of notary) refused to act.

4. I hereby request that an order be made directing the said to act in (name of notary) the execution of this office in the matter aforesaid.

Applicant

.....(Date)

FORM 4

(Section 20 (2))

THE NOTARIES PUBLIC AND NOTARIAL FUNCTIONS ACT

FORM OF REPORT

To the Chief Justice.

..... A B a notary public appointed under the Notaries Public and Notarial Functions Act, was on the day of _____ convicted by me of the offence of _____ and was sentenced to a term of imprisonment of _____

2. The facts relating to such conviction are as follows:

Judge or Magistrate

.....(Date)

FORM 5

(Section 32)

THE NOTARIES PUBLIC AND NOTARIAL FUNCTIONS ACT

FORM OF APPLICATION FOR APPOINTMENT AS A NOTARY PUBLIC

To the Chief Justice.

I (name of applicant) of (address of applicant)
hereby apply for appointment as a notary public.

2. The facts supporting this application are set out and verified in the
attached affidavit.

Applicant

.....(Date)

SECTION 18-THE NOTARIES PUBLIC (FEES) RULES

Rules by the Chief Justice Statutory Instrument

179 of 1990

Act 13 of 1994

1. (1) These Rules may be cited as the Notaries Public (Fees) Rules.

(2) These Rules shall apply in respect of functions and duties performed after the publication of these Rules. Title and application

2. The Second Schedule to the Act is hereby repealed and replaced by the Schedule set out in the Appendix to these Rules. Repeal and replacement of Second Schedule.

APPENDIX

(Paragraph 2)

SECOND SCHEDULE

(Section 18)

A. NOTARIAL ATTESTATION Fee

Units 1. For administering an oath or receiving a declaration of affirmation, without attestation or signature

182. For administering an oath, receiving a declaration of affirmation, with attestation or signature

453. For marking every exhibit or document annexed to an affidavit, declaration or affirmation

154. For signature attested by a Notary Public in any document not otherwise provided for in this Schedule

455. Declaration thereto for each additional notarial seal to the fastening

156. For marking document and attaching notarial seal to the fastening

187. For affixing notary signature, and seal if required, to any document not otherwise provided for in this Schedule

308. Preparing certificate or authentication or legislation of notary's signature and having the same sealed and signed by Registrar of the High Court or by foreign consul

679. Attestation accompanied by explanation to female to secure that she is separately advised

67B. ANTENUPTIAL CONTRACT 1. For preparing and attesting and, when required, completing by registration plain antenuptial contract with no settlement of property, including signed duplicate for wife, signed duplicate for husband and copy for deposit on registration-(minimum)

375C. NOTING AND PROTESTING PROMISSORY NOTES AND BILLS OF EXCHANGE

Noting against One Party	1.	Presentation Fee	. . . . .
. . . . .	.372.	Noting protest on Bill or Note	. . . . .
. . . . .	.373.	Noting in Book	. . . . .
. . . . .	.374.	Notice	. . . . .225.
Copy	. . . . .	.76.	Serving

Notice and Postage . . . . .	.307.	Extending
Protest on Bill or Note . . . . .	.37	Noting against Two
Parties		
Fee		
Units		
8. Presentation Fee . . . . .	.609.	
Noting Protest on Bill or Note . . . . .	.60	10.
Noting in Book . . . . .	.37	11. Notices
(two) . . . . .	.37	12. Copies (two) .
. . . . .	.15	13. Serving Notices and Postages
. . . . .	.60	14. Extending Protest on Bill or Note
. . . . .	.60	Noting against more than Two Parties Fee on
similar lines to the above		Protesting
No extra fee is to be charged unless		protest is drawn up in writing under special instructions to that effect
15. Formal protest in writing made on special instructions by client . . . . .	.97	16. Should the acceptor or drawer of a bill or note reside out of town
and		
the notary have to present the bill or note a further		Charge-
(a) For the first kilometre of journey . . . . .	.4	(b) For every
additional kilometre . . . . .	.21	7. Minuting or
Noting ships protest . . . . .	.67	18. Extending ship's
protest . . . . .	.91	19. Furnishing copy of
extended protest . . . . .	.37	20. Journeys necessarily
incurred . . . . .	.1D.	TRANSLATIONS
1. For every		page or part thereof
.232. Attestation to		translation
.373. Translation of		common attestation power of stocks
.37(As amended by Act		13 of 1994)

REPUBLIC OF ZAMBIA

THE INQUESTS ACT

CHAPTER 36 OF THE LAWS OF ZAMBIA

CHAPTER 36 THE INQUESTS ACT CHAPTER 36

THE INQUESTS ACT

ARRANGEMENTS OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

POWERS AND DUTIES OF CORONERS

3. Who may hold inquests
4. When inquest to be held

5. Power to dispense with inquest in certain cases
6. Postponement and adjournment of inquests in certain cases
7. Power to order exhumation

PART III

HOLDING OF INQUESTS

8. Inquest on persons in prison or in custody
9. Inquest to be held by coroner of place where body lying
10. Inquest where body destroyed or irrecoverable
11. Coroner may postpone burial or cremation till after inquest
12. Notice of death
13. Coroner may call for statements recorded by police officers

PART IV

POST-MORTEM EXAMINATION

14. Coroner may direct post-mortem examinations
15. Medical practitioner to make an examination and report

PART V

PROCEDURE AT INQUEST

Section

16. Evidence at inquest
17. Provisions regarding the viewing of body
18. Coroner may summon witnesses
19. Coroner not bound by rules of evidence
20. Evidence: how recorded
21. Statements recorded by police officers may be admitted as evidence in inquest
22. Examination of witnesses
23. Power to take evidence of witness unable to attend
24. Inquest on Sunday, etc., or in private

25. Adjournment of inquest
26. Coroner to adjourn inquest in certain cases
27. Issue of summons or warrant
28. The inquisition
29. Where guilty party unknown
30. Where guilty party cannot be found
31. Return of inquisitions
32. Copies of documents to be supplied
33. Powers of High Court

PART VI

MISCELLANEOUS

34. Penalty where body is buried without authority
35. Obstructing medical officer, etc.
36. Regulations
37. Prescribed forms

SCHEDULE-Prescribed forms

CHAPTER 36

INQUESTS

An Act relating to inquests.

[6th January, 1939]

52 of 1938

24 of 1939

8 of 1940

45 of 1940

26 of 1955

14 of 1957

40 of 1959

14 of 1960

3 of 1963

43 of 1966

1 of 1967

13 of 1994

Government Notices

224 of 1964

303 of 1964

493 of 1964

497 of 1964

Statutory Instrument
72 of 1964
29 of 1977

PART I

PRELIMINARY

1. This Act may be cited as the Inquests Act. Short title

2. In this Act, unless the context otherwise requires- Interpretation

"building operation" has the meaning assigned to that expression by section three of the Factories Act; Cap. 441

"coroner" means any person empowered or appointed to hold inquests under this Act;

"factory" has the meaning assigned thereto by section two of the Factories Act; Cap. 441

See section 56 of the Medical and Allied Professions Act (Cap. 245)* "medical practitioner" means any person registered or licensed as a medical practitioner under the Medical and Allied Professions Act;

* See section 56 of the Medical and Allied Professions Act (Cap. 245) Cap. 297

"mine" has the meaning assigned thereto by section two of the Mines and Minerals Act; Cap. 213

"work of engineering construction" has the meaning assigned to that expression by section three of the Factories Act.

(As amended by No. 14 of 1957
and G.N. No. 303 of 1964) Cap. 441

PART II

POWERS AND DUTIES OF CORONERS

3. (1) Every magistrate having authority under the provisions of the Subordinate Courts Act to hold a subordinate court of the first, second or third class may hold inquests under this Act. Who may hold inquests.
Cap. 28

(2) The Judicial Service Commission may, by Gazette notice, appoint any other fit person to hold inquests under this Act within any area specified in such notice.

* See section 56 of the Medical and Allied Professions Act (Cap. 245).

(3) A coroner shall have jurisdiction-

(a) if he is a senior resident magistrate or resident magistrate, throughout Zambia;

(b) if, not being a senior resident magistrate or a resident magistrate, he is empowered to hold inquests in terms of subsection (1), within the limits of his magisterial jurisdiction;

(c) if he is appointed to hold inquests in terms of subsection (2), within such area as is specified in the notice referred to in that subsection.

(4) Any inquest commenced by a coroner may be continued, resumed or reopened in the manner provided by this Act by such coroner or, if such coroner is absent or ill, by any other coroner having jurisdiction as provided by section nine.

(As amended by No. 24 of 1939, No. 40 of 1959,
No. 3 of 1963 and G.N. Nos. 303 and 493 of 1964)

4. Whenever a coroner is credibly informed that the body of a deceased person is lying within his jurisdiction, and that there is reasonable cause to suspect that such person has died either a violent or an unnatural death, or in prison or in police custody, or in any place or circumstances which, in the opinion of the coroner, makes the holding of an inquest necessary or desirable, such coroner shall, except as otherwise provided in this Act, hold an inquest on such body as soon as is practicable. When inquest to be held

5. Whenever it shall appear to the coroner, either from the report of a medical practitioner rendered under section fifteen or otherwise, that the death is due to natural causes, and that the body shows no appearance of death being attributable to or of having been accelerated by violence or by any culpable or negligent conduct either on the part of the deceased or of any other person, it shall thereupon be lawful for the coroner at his discretion (except in the cases specified in section eight) to dispense with the holding of an inquest. Power to dispense with inquest in certain cases

6. (1) Whenever the coroner is informed that some person has been or is about to be brought before a magistrate on a charge of the murder, manslaughter or infanticide of the deceased, or of causing the death of the deceased by the reckless or dangerous driving of a motor vehicle, or of complicity in the death of the deceased under section eight of the Suicide Act, in the absence of reason to the contrary, the inquest shall not be commenced, or if commenced shall not be continued or resumed, until after the conclusion of the criminal proceedings. Postponement and adjournment of inquests in certain cases
Cap. 89

(2) After the conclusion of the criminal proceedings, the coroner may, subject as hereinafter provided, hold an inquest or resume the adjourned inquest if he is of opinion that public benefit is likely to result from his so doing; but, if he is of opinion that no public benefit is likely to result from his so doing, he shall certify his opinion to that effect and transmit such opinion to the Director of Public Prosecutions together with a certified copy of the inquest proceedings if the inquest has been commenced:

Provided that, if in the course of the criminal proceedings any person has been charged upon information, then upon the resumed inquest no inquisition shall contain any finding that sufficient grounds have been disclosed for charging that person with any offence of which he could have been convicted on such information or any finding which is inconsistent with the determination of any matter by the result of those proceedings.

(3) Notwithstanding the provisions of subsection (2), where an inquest is

postponed or adjourned in pursuance of subsection (1) and it is ascertained that a person to be charged cannot be found, the coroner shall commence or resume the inquest, as the case may be, and conclude it.

(4) For the purposes of this section, the expression "the criminal proceedings" means the proceedings before the magistrate and before the High Court, if the accused person is committed for trial by such court, or before any court to which the accused person may appeal from any conviction, and criminal proceedings shall not be deemed to be concluded until no appeal can be made in the course thereof without special leave.

(As amended by No. 14 of 1960, S.I. No. 72 of 1964 and No. 1 of 1967)

7. Notwithstanding any law or custom to the contrary enacted or obtaining, whenever it shall appear to any coroner that the body of any person, who has died in circumstances requiring the holding of an inquest thereon, has been buried without being viewed or without such inquest having been held, or where such inquest, although held, has been quashed or reopened, it shall be lawful for such coroner by his warrant in Form 1 in the Schedule to order the exhumation of such body; and he shall, after such exhumation, proceed to hold an inquest on such body and thereupon direct the reinterment thereof; and the expenses of such exhumation and reinterment shall be paid, upon the coroner's order, from the general revenues of the Republic:Power to order exhumation

Provided that such exhumation shall not be ordered in any case where, in the opinion of the coroner, it would be injurious to public health, or where there is no reasonable probability of a satisfactory result being obtained thereby.

(As amended by S.I. No. 72 of 1964)

PART III

HOLDING OF INQUESTS

8. Notwithstanding anything contained in this Act, where-

(a) a prisoner; or

(b) a person in the custody of a police officer or detained in custody under a detention order;

dies from any cause whatsoever, it shall be the duty of the prison officer having charge of such prisoner or the police officer or other person having charge of such person, as the case may be, to give notice of the death of such prisoner or person to a coroner within whose jurisdiction such death occurred and that coroner shall hold an inquest.

(No. 43 of 1966)Inquest on persons in prison or custody

9. A coroner only within whose jurisdiction the body of any person, upon whose death an inquest ought to be held, is lying shall hold the inquest, notwithstanding that the cause of death arose elsewhere; and if any body is found in any river or in any inland waters, the inquest shall be held by the coroner within whose jurisdiction the body is first brought to land:Inquest to be held by coroner of place where body lying

Provided that where it appears to a coroner by whom an inquest has been commenced that, owing to special circumstances to be entered upon the record of the inquest, it is expedient for the inquest to be continued by another coroner, he shall, after viewing the body (if such view is necessary in accordance with the provisions of subsection (1) of section seventeen) and making such entry upon the record as is required to be made under the provisions of subsection (4) of section seventeen, refer the record to such other coroner; and such other coroner shall thereupon, whether or not the body is lying within his jurisdiction and subject to any directions in that behalf which may be given by the High Court and which the High Court is hereby empowered to give, continue the inquest and conclude the same in accordance with the provisions of this Act.

(As amended by No. 3 of 1963)

10. When a coroner has reason to believe that a death has occurred in the area within which he has jurisdiction in such circumstances that an inquest ought to be held, and that owing to the destruction of the body by fire or otherwise or to the fact that the body is lying in a place from which it cannot be recovered, an inquest cannot be held except by virtue of the provisions of this section, he may, if he considers it desirable so to do, hold an inquest touching the death, and the law relating to inquests shall apply with such modifications as may be necessary in consequence of the inquest being held otherwise than on or after view of a body lying within the coroner's jurisdiction.

(As amended by No. 3 of 1963) Inquest where body destroyed or irrecoverable

11. A coroner may prohibit the burial or cremation of any body lying within his jurisdiction until an inquest shall have been held. Coroner may postpone burial or cremation till after inquest

12. When any body is found or a person has died in such circumstances as to make the holding of an inquest under this Act necessary or desirable, it shall be the duty of any person finding the body or becoming aware of the death forthwith to inform either a coroner having jurisdiction or a police officer or a chief or headman or district messenger, and upon receiving any such information such chief or headman or district messenger or police officer shall notify a coroner having jurisdiction to hold an inquest. Any person who fails without good cause to inform the chief or headman or district messenger or police officer as required by this section shall be guilty of an offence and shall be liable to a fine not exceeding seven hundred and fifty penalty units.

(As amended by Act No. 13 of 1994) Notice of death

13. (1) Where a death has occurred in such circumstances that an inquest is required or ought to be held under the provisions of this Act, the coroner having jurisdiction may direct any police officer having charge of or concerned in an investigation into the death to produce to the coroner, prior to the holding of the inquest, any statement made to, and recorded in writing by, such police officer by any person having knowledge of the circumstances, the cause of the death or the identity of the deceased, as the case may be, and the coroner may postpone the holding of the inquest for such time as may be necessary to enable him to obtain and peruse any such statement. Coroner may call for statements recorded by police officers

(2) A coroner to whom a statement is produced under subsection (1) shall, before holding the inquest, return the statement to the police officer by whom

it is so produced and may, at the same time, notify him of the name of any person whose attendance at the inquest will not be required unless otherwise ordered:

Provided that nothing in this section shall be construed as to prohibit the attendance at the inquest of any such person if he desires to attend.

(No. 43 of 1966)

PART IV

POST-MORTEM EXAMINATION

14. (1) If any coroner considers it necessary with a view to investigating the circumstances of the death of any person, to obtain a medical report on the appearance of the body of such person, and as to the conclusions to be drawn therefrom, he may, by written order in Form 2 in the Schedule, require any Government Medical Officer within or without his jurisdiction or any other medical practitioner within his jurisdiction to make an examination of the body and to report thereon:Coroner may direct post-mortem examination

Provided that-

(i) a coroner shall not make any order as aforesaid if he is of opinion-

(a) that the body cannot be brought to a medical officer or practitioner for examination; and

(b) that a medical officer or practitioner cannot make an examination at the place where the body is; and

(c) that the body cannot be brought to some specified place at which a medical officer or practitioner could make an examination;

so that the examination can be made within such time as would enable it to be of practical value;

(ii) the coroner shall not make any order as aforesaid if he is of opinion that, by reason of the distance which a medical officer or practitioner would be obliged to travel in order to make an examination and the time which would be occupied in the journey, it would not be in the public interest that such an order should be made.

(2) In any case of emergency where it would be impracticable to secure a coroner's order, any police officer of or above the rank of Sub Inspector may exercise the authority conferred on a coroner under subsection (1).

(As amended by No. 45 of 1940, No. 3 of 1963
G.N. No. 224 of 1964 and No. 24 of 1977)

15. Every medical practitioner upon the receipt of such order shall, unless he procures the services of some other medical practitioner to perform the duty, immediately make an examination of the body, with a view to determining therefrom the cause of death, and to ascertaining the circumstances connected therewith, and shall make a report in writing to the coroner describing the appearance of the body, and the conclusions which he draws therefrom touching the death of such person. The examination shall extend, when the medical

practitioner considers it necessary but not otherwise, to such dissection of the body as he may think requisite. The report shall be in Form 3 in the Schedule, and shall state the cause of death, and shall be signed and dated by the medical practitioner. Such report, on being read at the inquest by the coroner, shall be prima facie evidence of the facts therein stated without further proof, unless it is proved that the medical practitioner purporting to sign the report did not in fact sign it:

Medical practitioner to make an examination and report

Provided that the coroner may, if he shall consider it necessary or desirable, call such medical practitioner to give evidence at the inquest.

PART V

PROCEDURE AT INQUEST

16. The coroner shall at the inquest examine on oath in regard to the death all persons who tender their evidence respecting the facts and all persons having knowledge of the facts whom he thinks it expedient to examine. Evidence at inquest

17. (1) At or before the first sitting of an inquest on a body, the coroner shall view the body or shall satisfy himself that the body has been viewed by a police officer, medical practitioner, chief, headman, district messenger or other trustworthy person: Provisions regarding the viewing of body

Provided that, when an inquest on the body has been previously opened, it shall not be necessary upon a resumed, continued, or subsequent inquest for the body to be viewed a second time.

(2) An order authorising the burial of a body upon which it has been decided to hold an inquest may be issued at any time after the body has been viewed.

(3) If the body has been buried and has not been viewed in the manner provided in subsection (1), the coroner shall order the exhumation of the body for the purpose of a view in the manner provided by section seven unless he certifies that, in his opinion, such exhumation would be injurious to the public health or that no satisfactory result would be obtained thereby.

(4) In any case in which the coroner himself has viewed the body, he shall certify the fact upon the record of the inquest and in other cases he shall record evidence (if any) of the view of the body by a police officer, medical practitioner, chief, headman, district messenger or other trustworthy person.

18. (1) A coroner holding an inquest shall have and may exercise all the powers conferred upon a court by the Criminal Procedure Code with regard to summoning and compelling the attendance of witnesses and requiring them to give evidence, and with regard to the production of any document or thing at such inquest. Coroner may summon witnesses.

Cap. 88

(2) Every summons and warrant of arrest and summons to produce shall be in writing signed by the coroner.

(3) Where the inquest concerns the death of a person executed in pursuance of a death warrant, the medical practitioner who was present at the execution shall

be an essential witness at such inquest.

(4) The provisions of the Criminal Procedure Code shall, as far as may be, apply to summonses to produce issued by a coroner. Cap. 88

19. A coroner holding an inquest shall not be bound by any rules of evidence which may pertain to civil or criminal proceedings, but if any witness objects to answer any question on the ground that it will tend to incriminate him, he shall not be required to answer the question nor be liable to any penalty for refusing so to answer. Coroner not bound by rules of evidence

20. The coroner shall take down or cause to be taken down in his presence the evidence of every witness and such evidence shall be read over to such witness and shall be signed by him and by the coroner. Evidence: how recorded

21. Where, upon hearing the evidence of a police officer having charge of or concerned in an investigation into the death of the deceased person, the coroner is satisfied that-

(a) the death was caused in circumstances other than those referred to in subsection (3) of section twenty-two or in subsection (1) of section twenty-six; and

(b) there are no grounds for making a charge against any person in connection with the death;

the coroner may, notwithstanding the provisions of section twenty, admit as evidence a statement made to, and recorded in writing by, a police officer by any person relating to the death or the identity of the deceased, and any such statement admitted as aforesaid shall be evidence in the inquest and shall form part of the record.

(No. 43 of 1966) Statements recorded by police officers may be admitted as evidence in inquest

22. (1) The persons referred to in subsection (3) and any other person who, in the opinion of the coroner, is a properly interested person shall be entitled to examine any witness at an inquest either in person or by a barrister or solicitor. Examination of witnesses

(2) Where any person examines a witness under the provisions of subsection (1), the coroner shall disallow any question which, in his opinion, is not relevant or is otherwise not a proper question.

(3) Without prejudice to the generality of subsection (1), if the death of the deceased may have been caused by an injury received in the course of his employment or by an industrial disease, the following shall be deemed to be properly interested persons for the purposes of this section:

(a) any person appointed in writing by a trade union to which the deceased at the time of his death belonged;

(b) the employer of the deceased person; and

(c) any person duly authorised in writing by the Ministries responsible for

labour or mines.

(4) Unless the coroner otherwise determines, a witness at an inquest shall be examined first by the coroner and, if the witness is represented at the inquest, lastly by his representative.

(5) Any person whose conduct is likely, in the opinion of the coroner, to be called in question at an inquest shall, if not duly summoned to give evidence at the inquest, be given reasonable notice of the date, hour and place at which the inquest will be held.

(6) No person shall be allowed to address the coroner as to the facts.

(No. 26 of 1955)

23. (1) Where any person within the coroner's jurisdiction who is able to give material evidence in respect of any inquest is, owing to illness or other cause which appears satisfactory to the coroner, unable to attend at the place where the coroner usually sits, it shall be lawful for the coroner to take the deposition of such person in the place where such person is. Power to take evidence of witness unable to attend

(2) Whenever in the course of any inquest the coroner is satisfied that the examination of a witness is necessary and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case would be unreasonable, the coroner may issue a commission to any coroner, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) The coroner to whom the commission is issued shall proceed to the place where the witness is, or shall summon the witness before him, and shall take down the evidence in the same manner and may, for this purpose, exercise the same powers as if he were holding the inquest.

(4) After any commission issued under subsection (2) has been duly executed, it shall be returned, together with the recorded evidence of the witness examined, to the coroner before whom the inquest is pending and the commission, the return thereto and the evidence shall be evidence in the inquest and shall form part of the record.

24. (1) A coroner may lawfully hold inquests on any Sunday or public holiday. Inquest on Sunday, etc., or in private

(2) If the coroner thinks it expedient in the interests of justice that any inquest should be held in private, he shall hold the same in private.

(3) Whenever an inquest is held in private, the coroner shall record his reasons for so holding it.

25. A coroner holding an inquest in any place may adjourn the inquest to another day and may order the adjourned inquest to be held in the same or any other place. Adjournment of inquest

26. (1) Where a coroner holds an inquest on the body of any person whose death may have been caused—Coroner to adjourn inquest in certain cases

(a) by any accident occurring in a factory, or in the course of building

operations or works of engineering construction, or in any mine; or

(b) by any disease mentioned in the Second Schedule to the Workers' Compensation Act, when such disease may have been contracted in any factory, or during the course of any building operations or works of engineering construction, or in any mine;

the coroner shall adjourn the inquest unless-

(i) an officer duly authorised in writing by the Labour Commissioner, or in the case of an accident which has occurred in a mine, an officer duly authorised in writing by the Chief Inspector of Mines, is present to watch the proceedings; or

(ii) he has, before he commences the inquest, received notice in writing from the Labour Commissioner or the Chief Inspector of Mines, as the case may be, that he does not wish to be present. Cap. 271

(2) In any case in which a coroner adjourns an inquest by virtue of the provisions of subsection (1), he shall, at least fourteen days before the holding of the adjourned inquest, send to the Labour Commissioner or the Chief Inspector of Mines, as the case may be, a notice in writing of the time and place of the holding of the adjourned inquest:

Provided that-

(i) where the Labour Commissioner or the Chief Inspector of Mines has informed the coroner that he does not wish to be present at the adjourned inquest or that he or an authorised officer can be present on an earlier day than that fixed for resumption as aforesaid, the coroner may, in the first mentioned instance, resume such inquest on such day as to him seems fit or, in the second mentioned instance, may if he thinks fit resume such inquest on any earlier day upon which the Labour Commissioner or the Chief Inspector of Mines or an authorised officer may be present;

(ii) the coroner, before such adjournment, may take evidence to identify the body, medical evidence as to the cause of death and evidence as to the place where the accident occurred, and may order the interment of the body;

(iii) the coroner, before such adjournment, may take the evidence of any witness where he is satisfied, for reasons to be entered on the record, that such witness is unlikely to be available when the inquest is resumed.

(3) Any officer duly authorised by the Labour Commissioner, or by the Chief Inspector of Mines, as the case may be, and being present at an inquest adjourned in accordance with the provisions of subsection (1), may exercise any right conferred upon a properly interested person by section twenty-two.

(4) Where at any such inquest, at which a person authorised by the Labour Commissioner, or by the Chief Inspector of Mines, as the case may be, is not present, evidence is given of any neglect as having caused or contributed to the accident or disease, or of any defect in or about the mine, factory, location of the building operations or works of engineering construction, and such neglect or defect appears to the coroner to require a remedy, the coroner shall, notwithstanding the provisions of section thirty-two, without charge send to the Labour Commissioner, or the Chief Inspector of Mines, as the case may be, a copy of any deposition, note of evidence, medical report or other document in or from

which evidence of any such neglect or defect appears.

(No. 14 of 1957 as amended by No. 3 of 1963)

27. If during the course or at the close of any inquest the coroner is of opinion that sufficient grounds are disclosed for making a charge against any person in connection with the death, he may issue a summons or warrant to secure the attendance of such person before any subordinate court having jurisdiction, and may bind over any witness who has been examined by or before him on a recognizance with or without surety to appear and give evidence before such court. Issue of summons or warrant

28. (1) The proceedings and evidence at an inquest shall be directed solely to ascertaining the following matters: The inquisition

(a) who the deceased was;

(b) how, when and where the deceased came by his death;

(c) the persons, if any, to be charged with murder, manslaughter, infanticide, or causing death by the reckless or dangerous driving of a motor vehicle, or of being accessories before the fact should the coroner find that the deceased came to his death by murder, manslaughter, infanticide, or such driving;

(d) the particulars for the time being required by any written law to be registered concerning the death.

(2) If the conduct of any person is called in question at an inquest on grounds which the coroner thinks substantial and which relate to any matter referred to in subsection (1), and if that person is not present at the inquest and has not been duly summoned to attend or otherwise given notice of the holding of the inquest, the inquest shall be adjourned to enable him to be present if he so desires.

(3) After the view (if any) of the body and the completion of the evidence, the coroner shall give his finding and certify it by an inquisition in writing in Form 5 in the Schedule, showing such of the matters set forth in subsection (1) as have been proved at the inquest, and, where the inquest concerns the death of a person executed in pursuance of a death warrant, the verdict and inquisition shall include a finding as to whether the death was instantaneous and the person executed was the person named in the said warrant.

(4) The coroner shall not express any opinion on any matters other than those referred to in subsections (1) and (3):

Provided that nothing in this subsection shall preclude the coroner from making a recommendation designed to prevent the recurrence of fatalities similar to that in respect of which the inquest was held.

(5) No verdict shall be worded in such a way as to appear to determine any question of civil liability.

(No. 26 of 1955 as amended by No. 14 of 1960)

29. If, at the close of any inquest, the coroner is of opinion that there is ground for suspecting that some person is guilty of an offence in respect of the

matter inquired into, but cannot ascertain who such person is, he shall certify his opinion to that effect and transmit a copy of the proceedings to the Commissioner of Police. Where guilty party unknown

30. Where the proceedings upon any inquest have been transmitted to the Commissioner of Police under section twenty-nine and the guilty person remains undiscovered, and if, in the opinion of the Commissioner of Police, there is no probability that such person will be discovered, he shall certify his opinion to that effect and transmit the copy of the proceedings to the Director of Public Prosecutions. Where guilty party cannot be found

(As amended by S.I. No. 72 of 1964)

31. (1) The original records of all inquests held by a coroner shall be retained by the coroner holding such inquests until the 31st December in each year, when such records shall be forwarded to the Registrar of the High Court. Return of inquisitions

(2) Where, in any particular case, the coroner thinks it desirable, or the High Court or the Director of Public Prosecutions calls for the record of an inquest, the coroner shall forward certified copies of the inquisition, depositions and recognizances to the High Court and the Director of Public Prosecutions.

(No. 26 of 1955 as amended by G.N. No. 493 of 1964 and S.I. No. 72 of 1964)

32. A coroner or the Registrar of the High Court in the case where the original records of an inquest have been received by him in accordance with the provisions of section thirty-one-

(a) shall, on application and on payment of the prescribed fee (if any), supply to any person who, in the opinion of the coroner or such Registrar, is a properly interested person, a copy of any depositions taken by the coroner at an inquest or of any report of a post-mortem examination or of any notes of evidence or of any document put in evidence at any inquest or of the inquisition or any recommendation made by the coroner in terms of the proviso to subsection (4) of section twenty-eight; or

(b) may, on application and without charge, permit any such person to inspect such deposition, report, notice, evidence, inquisition or recommendation.

(No. 3 of 1963) Copies of documents to be supplied

33. (1) Where the High Court, upon application made by or under the authority of the Director of Public Prosecutions, is satisfied that it is necessary or desirable to do so, it may-Powers of High Court

(a) order an inquest to be held touching the death of any person;

(b) direct any inquest to be reopened for the taking of further evidence, or for the inclusion in the proceedings thereof and consideration with the evidence already taken, of any evidence taken in any judicial proceeding which may be relevant to any issue determinable at such inquest, and the recording of a fresh finding upon the proceedings as a whole;

(c) quash the finding in any inquest substituting therefor some other finding which appears to be lawful and in accordance with the evidence recorded or

included as hereinbefore in this section provided; or

(d) quash any inquest, with or without ordering a new inquest to be held.

(2) The provisions of this section shall apply to all inquests and the findings therein.

(3) For the purposes of this section, the expression "judicial proceeding" means a proceeding before any court, tribunal or person having by law power to hear, receive and examine evidence on oath.

(As amended by S.I. No. 72 of 1964)

PART VI

MISCELLANEOUS

34. (1) Any person who, without lawful authority or excuse interments or cremates any body, the burial or cremation of which has been prohibited under section eleven, or the body of any person who has died in police custody or in any prison, or of any person who has died in any of the circumstances mentioned in section four, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding seven hundred and fifty penalty units. Penalty where body is buried without authority

(2) Where any person is charged with having committed an offence under this section, the onus of proving that he had lawful authority or excuse shall be on the person charged.

(As amended by Act No. 13 of 1994)

35. Any person who obstructs a medical practitioner, police officer, chief, headman or district messenger in the execution of any duty imposed upon him by this Act shall be guilty of an offence and on conviction shall be liable to a fine not exceeding seven hundred and fifty penalty units.

(As amended by Act No. 13 of 1994)Obstructing medical officer, etc.

36. The Chief Justice, with the concurrence of the Minister responsible for finance, may, by statutory instrument, make regulations prescribing the scale of fees to be paid by persons applying for a copy of any depositions taken by the coroner at an inquest, or of any report of a post-mortem examination or of any note of evidence or of any document put in evidence at an inquest, and prescribing the scale of fees to be paid to medical practitioners for any post-mortem examination or other service required of them under this Act, and the scale of fees to be paid to witnesses and other persons.

(No. 26 of 1955 as amended by G.N. No. 303 of 1964)Regulations

37. The forms set out in the Schedule shall be used for the several matters to which they relate with such variations as circumstances may require. The Chief Justice may, from time to time by statutory order, amend, revoke or add to the Schedule.

(As amended by G.N. No. 303 of 1964)Prescribed forms

SCHEDULE

(Section 37)

PRESCRIBED FORMS

REPUBLIC OF ZAMBIA

THE INQUEST ACT

CORONER'S FORM 1

(Section 7)

ORDER OF EXHUMATION

.....District

To

Whereas it appears that
has died in circumstances requiring the holding of an inquest upon his body and
that the body of the said
has been buried at without such inquest
being held (or without the said body being viewed) (or that the inquest held at

on the day of was insufficient):

These are to charge and command you that you forthwith cause the said body
to be taken up (and viewed) (or, and safely conveyed to
in the above-named District) that I may proceed to inquire into the cause of the
death of the said (or as the case may be).

Herein fail not.

Given under my hand at this day of
19..... .

.....

Coroner

REPUBLIC OF ZAMBIA

THE INQUEST ACT

CORONER'S FORM 2

(Section 14)

ORDER FOR POST-MORTEM EXAMINATION

To Dr

Whereas I am credibly informed that one:

has died in circumstances which may require the holding of an inquest under the Inquests Act, you are hereby authorised and required to make a post-mortem examination of the body of the said:

which will be delivered to you by and to make a report to me thereon:

Given under my hand at this day of 19..... .

.....

Coroner

REPUBLIC OF ZAMBIA

THE INQUEST ACT

CORONER'S FORM 3

(Section 15)

REPORT ON POST-MORTEM EXAMINATION

To the Coroner

I HEREBY CERTIFY THAT at on the day of
19..... at the hour of

I examined the body of a

{

male

female{European

African

Asiatic

Coloured {adult

child

infant

*(A) The body was identified to me by
of in the presence of
(insert rank and name of police officer present, if any)
as being that of

*(B) The body was not identified to me and the external appearances are
therefore fully described overleaf. From my examination, of which a record is
appended, and from a consideration of the circumstances

reported to me by {the Police

the District Secretary,

informant, viz:

I am of the opinion that

*(C) death occurred hours/days before my
examination;

*(D) the cause(s) of death was/were
I am unable to form an opinion as to

*(E) the date or time of death

*(F) the cause of death.

SUMMARY OF SIGNIFICANT, ABNORMAL FINDINGS AT EXAMINATION

Signed at this day of 19.....

Signature of Examiner

Registered qualification

Designation { Government Medical Officer/Pathologist
 Designation Private Practitioner/Pathologist

If space is insufficient, give and sign full statement on separate piece of
paper and pin to this report.

* Complete or delete as appropriate.

RECORD OF OBSERVATIONS

Position and attitude of body

Condition of clothing

Surroundings of body

Pupils

Nutrition, Warmth, Rigidity

Lividity, Putrefaction

External injuries, fractures

External apertures: condition of, injuries to and foreign bodies in

(See also Note 2)

Height Weight (approx.)

Age of deceased: Apparent

Reputed.....

Skull and its contents including orbits and nasal cavities

Mouth, Pharynx and Oesophagus

Pericardium, Pericardial Sac, and Heart (See Note 3 [i])

Large Blood-vessels (e.g., aortic disease, thrombosis or suppuration in large veins)

Larynx, Trachea, and Bronchi .

Pleurae, Pleural Sacs, and Lungs:

Right

Left

Thymus, Thyroid and Lymphatic Glands

Peritoneum and Peritoneal Sac (N.B.-Pouch of Douglas)

Spleen

Stomach and Omenta (See Notes 3[ii] and 4[i])

Intestines and Mesentery (See Notes 3[ii] and 4[i])

Liver, Gall Bladder and Bile Ducts (See Notes 3[ii] and 4[i])

Kidneys, Ureters, and Suprarenal Glands (See Notes 3[ii] and 4[i]):

Right

Left

Urinary Bladder and Urethra (See Notes 3[ii] and 4[i])

Pancreas

Generative Organs (See Note 6)

Spinal Column and Spinal Cord (See Note 7)

ADDITIONAL OBSERVATIONS

(Particular attention is drawn to the Notes on page 4 concerning the Transmission of Organs for Examination in suspected poisoning)

Organs, Parts or Material reserved for further investigation, and how disposed of

NOTES

(1) The scheme as given here for the examination of a body is devised to

meet the maximum requirements of any case. Although the following out of this scheme in every detail may not in every case be necessary, yet the examination of the body and its organs should be, in all cases, as exhaustive as the circumstances warrant and the occasion permits. In every case in which the question of accident, suicide or murder may arise it is essential for all the organs in all the cavities of the body to be examined, even though an apparently sufficient cause of death has already been discovered. A Medical Officer may be called upon to give considerably more information-arising from his examination of the body-than the mere cause of death. In this respect a sketch of external injuries is often advisable. Any omission to examine a particular part or organ may, by providing cause for uncertainty, seriously prejudice the course of justice; the responsibility for such an omission must lie only with the Medical Officer who conducted the autopsy. When there is definite suspicion as to the cause of death, that cavity is to be opened first in which the principal changes are expected to exist. In the case of a new-born child, when it has to be determined whether the child has breathed or not, the trachea should first be ligatured above the sternum, the abdomen opened and the position of the diaphragm ascertained, and the thorax then opened and its organs removed-after dividing the trachea above the ligature. In all other cases the head should be opened first, then the thorax, and lastly the abdomen. In cases of undoubted accidental death where the head has not been injured, detailed examination of the cranial contents may be left to the discretion of the examiner. When not carried out, a note to the effect that there was no indication for such detailed examination should be inserted.

Special attention should be paid to the thymus, adrenals, thyroid and lymphatic glands in cases of sudden death not explained by other changes.

(2) If the body be that of an unknown person, the colour of eyes and hair, number and condition of teeth, deformities, scars, and tattoo marks should be noted as aids to subsequent identification.

(3) (i) In cases of suspected irritant metallic poisoning the endocardium lining the left ventricle should be carefully examined and the presence or absence of petechial or large haemorrhages noted.

(ii) The entire stomach should be ligatured off at both ends, removed from the body, placed in a clean dish, opened along its lesser curvature and a careful note made of its contents and the appearance of its inner surfaces. Where circumstances might lead to a serious risk of contamination of the stomach contents and there is a strong presumptive evidence of poisoning, the organs should not be opened. In all cases where poisoning is suspected, the stomach and its contents should be transferred to a special wide-mouthed jar. In such cases both kidneys and about 500 gms. liver should be removed and placed in another jar. See Note (4).

Where poisoning is suspected, the intestines should, after removal of the stomach, be removed, slit open, washed out, and the appearance of the mucous membrane, especially that of the rectum, then carefully examined and noted. The presence or absence of solid faeces in the lower bowel should also be noted before the intestines are washed out. It is not necessary to forward the intestines to the analyst.

In all cases of suspected poisoning any urine which the bladder may contain should be preserved. In other cases, unless putrefaction be advanced, an examination of a sample of the urine may throw light on the cause of death.

(4) It should be particularly noted that:

(i) All viscera specimens intended for toxicological analysis must be preserved in rectified (not methylated) spirit and a specimen of the spirit used should be sent separately. When analysis for acute alcoholic poisoning is requested, blood samples should be taken in specimen bottles obtainable from the Public Health Laboratory, Lusaka.

(ii) Except when a case summary is being forwarded by the Police, a brief history of the case should be submitted in order to assist in deciding what types of poison are likely to be worth searching for.

(5) Whenever the possibility exists of a charge arising out of the death, blood samples must be submitted, both on absorbent paper and in acid-citrate-dextrose, in accordance with H.D. Circular No. 83 of 1957.

(6) When it is suspected that delivery has recently occurred at term, the breasts and the skin of the anterior abdominal wall should be examined and their condition noted. In cases of suspected rape, or of violation of the dead, some of the secretion should be removed from the vaginal fornices and smeared upon clean glass slides for subsequent examination.

(7) In females where abortion is suspected, after a thorough vaginal examination, the pelvic organs should be removed from the body in a mass, after ligaturing off the intestines, and the various organs dissected out one by one. To do this it is advisable to remove all the tissues from the pelvis by cutting close to the bone.

N.B.-The condition of the uterus and appendages, the presence or absence of products of conception, signs of recent delivery, etc., should always be noted.

(8) The spinal cord need only be exposed when positive information may be expected from its examination. Fracture dislocation, especially in the upper cervical region, should always be examined for by manipulation; if detected it should be investigated by dissection.

(9) When individual organs are found enlarged or wasted, their actual weight should, if possible, be ascertained and noted.

(10) It may happen that a definite opinion as to the cause of death cannot be formed without a microscopic examination of tissues. In such cases small pieces of organs should be placed in 20 volumes of 10% formol-saline and preserved for further investigation. When death may possibly have resulted from anthrax, malaria, leukaemia, etc., blood-smears should be made upon clean glass slides and preserved for microscopic examination.

(11) It is not necessary to record upon this form observations upon organs which show no evidence of injury or disease: the word "normal" is all that need be written in such cases. In the "Summary of Significant Findings" facts only are required, not inferences.

(12) At the conclusion of the necropsy, the Medical Officer should see that the organs, if not required for further investigation, are returned to their proper cavities, and that the cavities are suitably closed. These precautions facilitate a re-examination should such be called for.

REPUBLIC OF ZAMBIA

THE INQUESTS ACT

CORONER'S FORM 4

(Sections 20 and 22)

RECORD OF EVIDENCE

In the Court of the Coroner for the

District of

Inquest No

Inquest on the body of

Witness No.

Apparent Sex. apparent age
.apparent race

Sworn/affirmed

Saith in the language:

My name is

My tribe
is.....
My village is

My chief
is.....
My district is

I am employed as

I live at

I made a statement to at the investigation into the circumstances
leading to the death of the person on whose body this Court is now holding an
inquest.

(NOTE.-The attached typescript marked "....." is read to
the witness.)

What has been read to me is a correct record of my statement. It is a true
statement. There is nothing which I wish to correct in it, and there is nothing
which I can add to it *except as follows:

Witness.

Interpreter.

Coroner.

* Delete words in italics if inappropriate.

These signatures should be placed here or at the end of any continuation sheets as appropriate.

REPUBLIC OF ZAMBIA

THE INQUESTS ACT

CORONER'S FORM 5

(Section 28)

THE INQUISITION

AN INQUISITION taken at _____ in the
district of _____ in Zambia
the day of 19..... before _____,
Esquire, Coroner, on the body of one

NOW I, the said Coroner, charged to inquire when, where, how and after what
manner the said deceased person came to his/her death say that the following
particulars have been disclosed:

- 1. Name of deceased
- 2. Residence and occupation
- 3. Means of identity
- 4. Where found

When

Under what circumstances

- 5. Date of death
- 6. Cause of death.
- 7. Offence (if any) disclosed

AND I, the said Coroner, do say that my finding is that

In witness whereof I have to this inquisition set my hand this
day of 19.....

Station Coroner

(G.N. No. 207 of 1961 as amended by S.I. No. 72 of 1964)

SUBSIDIARY LEGISLATION

INQUESTS CAP. 36

SECTION 36-THE INQUESTS (POST-MORTEM AND WITNESS FEES) REGULATIONS

Regulations by the Chief Justice with the concurrence of the Minister responsible for finance

Government Notices

13 of 1939

244 of 1955

244 of 1964

Statutory Instrument

368 of 1965

Act 13 of 1994

1. These Regulations may be cited as the Inquests (Post-Mortem and Witness Fees) Regulations, and shall be deemed to have taken effect as from the commencement of the Act. Title and commencement

2. (1) A medical practitioner, other than a Government Medical Officer, carrying out an external inspection by order of a coroner or police officer (but not otherwise) shall receive a fee of one hundred and fifty eight fee units for the said inspection and such fee shall include the completion of the prescribed report to the coroner, but if the said practitioner is called upon to attend court to give evidence in relation to the said external inspection, he shall be entitled to a further fee of sixty-three fee units. Fees of medical practitioners

(2) A medical practitioner, other than a Government Medical Officer, carrying out a complete post-mortem examination by order of a coroner or police officer (but not otherwise) shall receive a fee of three hundred and fifteen fee units and such fee shall include the completion of the prescribed report to the coroner, but if the said practitioner is called upon to attend court to give evidence in relation to the said post-mortem examination, he shall be entitled to a further fee of one hundred and twenty six fee units.

(As amended by Act No. 368 of 1965 and No. 13 of 1994)

3. Any reasonable travelling expenses, to be assessed by the coroner, which have been incurred by a medical practitioner, other than a Government Medical Officer, in complying with any service ordered to be performed by him shall be payable to such medical practitioner.

(As amended by No. 244 of 1955 and No. 244 of 1964)

4. It shall be lawful for the coroner to order and allow to all persons, other than a Government Medical Officer, required to attend, or examined, as witnesses such sum or sums of money as shall seem fit, as well for defraying the reasonable expenses of such witnesses as for allowing them a reasonable compensation for their trouble and loss of time. But it shall not be lawful for any person to refuse to attend as a witness or to give evidence, when so required by lawful process, on the ground that his expenses have not been first paid.

(As amended by No. 244 of 1955 and No. 224 of 1964) Allowance and expenses of witnesses

SECTION 36-THE INQUESTS (FEES FOR COPIES OF PROCEEDINGS) REGULATIONS

Regulations by the Chief Justice with the concurrence of the Minister responsible for finance

Government Notice

126 of 1963

Statutory Instrument

72 of 1964

Act

13 of 1994

1. These Regulations may be cited as the Inquests (Fees for Copies of Proceedings) Regulations. Title

2. Where a coroner or the Registrar of the High Court has granted an application by any person for a copy of any part of the record of proceedings in an inquest, the coroner or the Registrar shall certify the copy as a true copy and the applicant shall pay-

(a) two fee units for every one hundred words or part of one hundred words of the copy supplied to him; and

(b) a fee of eight fee units in respect of the certification of the copy as a true copy: Fees for copies of proceedings

Provided that the coroner or the Registrar may, on account of the poverty of the applicant or for other good and sufficient reason, dispense with the payment of such fees in part or in whole, filing a copy of his order of dispensation with the original record of proceedings.

(As amended by Act No. 13 of 1994)

3. Notwithstanding anything contained in the last preceding regulation, no fee shall be payable under these Regulations by any person applying for a copy of any part of the record of proceedings in an inquest on behalf of a Government department. No fee payable for Government department

4. All fees hereby prescribed shall be paid by means of adhesive revenue stamps, issued by the Government, which shall be affixed to the original record of proceedings.

(As amended by S.I. No. 72 of 1964) Fees to be paid by means of revenue stamps

5. The original record of proceedings shall be endorsed with the name of the applicant and a statement of the part of the record of proceedings copied and supplied to him. Endorsement of original record of proceedings

REPUBLIC OF ZAMBIA

THE SHERIFFS ACT

CHAPTER 37 OF THE LAWS OF ZAMBIA

CHAPTER 37 THE SHERIFFS ACTCHAPTER 37

THE SHERIFFS ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

APPOINTMENT OF SHERIFFS AND OTHER OFFICERS

3. Appointment of Sheriff, Deputy Sheriffs, etc.
4. Appointment of bailiffs
5. Declaration and security by bailiffs
6. Local limits of bailiwicks

PART III

DUTIES, ETC., OF SHERIFFS AND OTHER OFFICERS

7. Duties of Sheriff
8. Duties of Deputy Sheriffs
9. Duties of Assistant Sheriffs
10. Duties of Under-Sheriff
11. Duties of bailiff
12. Sheriffs, etc., to be officers of court
13. Delegation of duties

PART IV

MISCELLANEOUS

14. Indemnity to Sheriff
15. Protection of officers selling goods, etc.
16. Fees
17. Regulations

18. Saving of existing appointments

19. Validation of certain acts

SCHEDULE-Declaration by bailiff

CHAPTER 37

SHERIFFS

An Act to make provision for the appointment of Sheriffs and other officers; to set out their respective powers and duties and the manner of the exercise thereof; and to provide for matters incidental to or connected with the foregoing.

[7th November, 1960]

28 of 1960

57 of 1964

Government Notices

303 of 1964

497 of 1964

7 of 1979

3 of 1989

PART I

PRELIMINARY

1. This Act may be cited as the Sheriffs Act.Short title

2. In this Act, unless the context otherwise requires-Interpretation

"bailiwick" means an area specified under the provisions of section six;

"court" means the High Court and a subordinate court;

"judgement debtor" means a person liable under a judgment;

"process" means a formal written authority issued by a court for the enforcement of a judgment, and includes a writ of attachment and sale, a writ of delivery, a writ of possession, a writ of elegit, and any warrant or order of arrest, commitment or imprisonment;

"Sheriff" includes Deputy Sheriff, Assistant Sheriff and Under-Sheriff;

"writ" includes any originating process.

PART II

APPOINTMENT OF SHERIFFS AND OTHER OFFICERS

3. (1) The Judicial Service Commission may appoint-Appointment of Sheriff, Deputy Sheriffs, etc.

- (a) a Sheriff of Zambia;
- (b) Deputy Sheriffs of Zambia;
- (c) so many Assistant Sheriffs, for such area or areas, as it may think fit;
- (d) an Under-Sheriff for each District.

(2) The Judicial Service Commission may at any time appoint any person to undertake the duties of an Under-Sheriff under the provisions of this Act during the absence of such Under-Sheriff from the place in which he has his office, and whilst undertaking such duties such person shall be deemed to be an Under-Sheriff for the purposes of this Act.

(As amended by G.N. No. 303 of 1964, and Act No. 3 of 1989)

4. (1) The Judicial Service Commission may appoint such number of bailiffs for each bailiwick as it considers necessary. Appointment of bailiffs

(2) Every bailiff appointed under the provisions of this section shall be deemed to be a court messenger for all the purposes of the High Court Act and of the Subordinate Courts Act.

(As amended by Act No. 3 of 1989)Cap. 27
Cap. 28

5. (1) Every bailiff and every other person who has authority to intermeddle with the execution of writs issued by a court shall, before he does so, make a declaration, in the form set out in the Schedule or to the like effect, before a Judge or magistrate. Declaration and security by bailiffs

(2) Every bailiff shall, if so required, give security to the satisfaction of the Sheriff for the due fulfilment of the duties of his office and for the due and punctual payment by him to the parties entitled thereto of all moneys which shall come into his hands by virtue of his office.

6. (1) The Registrar may, by statutory notice, specify any area or areas which shall be bailiwicks, and may define the limits of such bailiwicks in such manner as he may deem sufficient. Local limits of bailiwicks

(2) Any notice issued under the provisions of subsection (1) may at any time be revoked or varied by a like notice.

(3) Every notice appointing a bailiff under the provisions of subsection (1) of section four shall specify the bailiwick within which such bailiff shall exercise the powers conferred upon him by this or any other written law.

(As amended by Act No. 3 of 1989)

PART III

DUTIES, ETC., OF SHERIFFS AND OTHER OFFICERS

7. (1) The Sheriff shall receive all writs and process and be charged with making returns thereto as may be prescribed by rules of court. Duties of Sheriff

(2) The Sheriff shall, at the request of any person delivering a writ to him for execution, give a receipt for such writ stating the hour and the day of such delivery.

(3) The Sheriff shall perform such other duty or duties as may be imposed upon him by any written law, or any general or specific directions of the Registrar

(As amended by Act No. 3 of 1989)

8. Subject to the general or special directions of the Sheriff, Deputy Sheriffs shall be charged generally with the performance of the duties of the Sheriff and shall have the same protection as the Sheriff. Duties of Deputy Sheriffs

9. Subject to the general or special directions of the Sheriff or of a Deputy Sheriff, Assistant Sheriffs shall, within the area for which they were appointed, be charged generally with the performance of the duties of the Sheriff and shall have the same protection as the Sheriff. Duties of Assistant Sheriffs

10. Every Under-Sheriff shall, within the District for which he is appointed, receive writs and process of any court, whether within or without Zambia, and shall be charged with the service or execution thereof, as may be appropriate, and with making returns thereto, and each such Under-Sheriff shall have the same protection as the Sheriff. Duties of Under-Sheriff

11. A bailiff shall, within the bailiwick for which he is appointed, serve writs or execute process as may be required by any written law, and shall carry out such other functions as may be required by any general or specific directions of the registrar

(As amended by Act No. 3 of 1989) Duties of bailiff

12. The Sheriff and every Deputy Sheriff, Assistant Sheriff, Under-Sheriff and bailiff shall, in the performance of his duties in connection with any writ or process, be an officer of the court by which such writ or process was issued.

(As amended by Act No. 3 of 1989) Sheriffs, etc., to be officers of court

13. Every duty of the Sheriff in the service of writs and the execution of process may be performed by such police officer or other person as may be authorised in that behalf by the Sheriff or by the Under-Sheriff of the District in which such service or execution is to be performed, and every such officer or person who is in possession of such writ or process shall be presumed to be so authorised, and shall, for all purposes connected therewith, be an officer of the court by which such writ or process was issued. Delegation of duties

PART IV

MISCELLANEOUS

14. (1) The Sheriff shall not be liable to be sued for any act or omission of any Sheriff's officer, police officer or other person in the service of any writ or the execution of any process which shall have been done, or omitted to have been done, or which may have occurred either through disobedience to or neglect of the orders or instructions given by the Sheriff. Indemnity to Sheriff

(2) In every case of execution, all steps which may legally be taken therein shall be taken on the demand of the party who issued such execution, and such party shall be liable for any damage arising from any irregular proceeding taken at his instance.

15. (1) Where any goods in the possession of a judgment debtor at the time of seizure by an officer are sold by such officer without any claim having been made to the same-Protection of officers selling goods, etc.

(a) the purchaser of the goods so sold shall acquire a good title to those goods; and

(b) no person shall be entitled to recover against such officer of any person acting under his authority for any sale of such goods, or for paying over the proceeds of such sale prior to the receipt of a claim to the said goods, unless it is proved that the person from whom recovery is sought had notice or might, by making reasonable inquiry, have ascertained that the goods were not the property of the judgment debtor:

Provided that nothing in this section contained shall affect the right of any claimant who may prove that at the time of sale he had a title to any goods so seized and sold to any remedy to which he may be entitled against any person other than an officer or person acting under the authority of such officer.

(2) For the purposes of this section, "officer" means the Sheriff, a Deputy-Sheriff, an Assistant Sheriff an Under-Sheriff, a bailiff and any other person charged with the enforcement of a writ, warrant or other process of execution.

16. (1) Any person authorised by or under this Act to be concerned in the service of any writ or the execution of any process may demand, take and receive fees, commissions and allowances as may from time to time be fixed by the Chief Justice.Fees

(2) All fees, commissions and allowances demanded, taken or received under subsection (1) shall be paid into any fund created under section eight of the Finance (Control and Management) Act.

(As amended by Act No. 3 of 1989)Cap. 347

17. The Chief Justice may, by statutory instrument, make regulations for the due administration and efficient working of this Act.

(As amended by Act No. 3 of 1989)Regulations

18. All appointments of Under-Sheriffs and bailiffs made under the provisions of the High Court Act and in force immediately prior to the commencement of this Act shall continue in force as if such appointments had been made under the provisions of this Act.Saving of existing appointments
Cap. 27

19. The Deputy Registrar, District Registrars and Assistant Registrars of the High Court shall, in the performance or purported performance prior to the commencement of this Act of any of the duties of the Sheriffs, be deemed always to have been lawfully charged with the performance of such duties.Validation of certain acts

SCHEDULE

(Section 5)

DECLARATION BY BAILIFF

I, A.B., do hereby solemnly and sincerely declare that I will not use or exercise the office of bailiff corruptly during the time that I shall remain therein, neither will I accept, receive or take by any colour, means or device whatsoever or consent to the taking of any manner of fee or reward of any person or persons or betwixt party and party above such fees as are allowed for the same by law, but will according to my power truly perform my duty during the time that I shall remain in the said office.

Bailiff

Taken before me this day of 19
..... .

Judge or Magistrate

SUBSIDIARY LEGISLATION

SHERIFFS CAP. 37

SECTION 6 -ESTABLISHMENT OF BAILIWICKSGovernment Notice
191 of 1963

Notice by the Sheriff

The Sheriff hereby specifies the areas set out in the first column of the Schedule to be bailiwicks designated by the respective names set out in the second column of the Schedule, and hereby defines the limits of the said bailiwicks as conterminous with the limits of the administrative district or districts comprising the areas set out in the first column of the Schedule.

SCHEDULE

Area of bailiwick	Designation of bailiwick
The Chingola District and the Chilila- bombwe District	The Chingola bailiwick.
The Kabwe Urban District and the Kabwe Rural District	The Kabwe bailiwick.
The Kitwe District and the Kalulushi	

District The Kitwe bailiwick.

The Ndola Urban District and the Ndola

Rural District The Ndola bailiwick.

Each other administrative district The designation of that district.

SECTION 16-THE SHERIFF'S FEES AND ALLOWANCES ORDER

Order by the Chief Justice

Statutory Instrument

- 28 of 1972
- 236 of 1977
- 60 of 1978
- Act
- 13 of 1994

1. This Order may be cited as the Sheriffs' Fees and Allowances Order. Title
2. The fees and allowances payable to a Sheriff or to any officer of the Sheriff concerned in the service of any writ or the execution of any process shall be as set out in the Schedule. Fees and allowance
3. When the Sheriff or any officer of the Sheriff concerned in the service of any writ or the execution of any process cannot reasonably be expected to effect the service and thereafter return to his office within a period of twelve hours, the fees and allowances fixed by this Order shall not be payable unless the court has, on the application of the party on whose behalf the service is to be effected, given necessary directions as to the manner in which the service shall be effected. Directions of court necessary in certain circumstances

SCHEDULE

(Paragraph 2)

FEES AND ALLOWANCES PAYABLE TO SHERIFFS AND OFFICERS OF SHERIFFS

	Fee units
(1) For an arrest	13
(2) For a seizure	13
(3) For travelling allowance to effect an arrest or a seizure, per kilometre	13
(4) For a man or, when necessary, men in possession, the sum actually and reasonably paid.	

- (5) For the removal of goods or animals to a place of safe-keeping when necessary and for warehousing or taking charge of the same when removed, the sum actually and reasonably paid.
- (6) For advertising and giving publicity to a sale, printing catalogues, bills and notices and distributing and posting the same, the sum actually and reasonably paid.
- (7) On a sale under writ or warrant, 5 per centum of the amount realised or of the amount due under the writ or warrant, whichever is the less.
- (8) For commission to the auctioneer on a sale, to include inventory and valuation, compiling catalogue and preparing for sale, 10 per centum of the amount realised or of the amount due under the writ or warrant, whichever is the less.
- (9) Where execution is withdrawn, satisfied or stopped after seizure but before sale, 2 1/2 per centum of the amount due under the writ or warrant.
- (10) For commission to the auctioneer where execution is withdrawn, satisfied or stopped after he has been instructed to sell, to include inventory, valuation, compiling catalogue and preparing for sale, 5 per centum of the amount due under the writ or warrant.
- (11) For service (other than by registered post or advertisement), of any writ or other process of the court-
- A. Not more than 4.83 kilometres from the office of the serving officer 6
- B. More than 4.83 kilometres from such office-
- (a) fee 6
- (b) actual out of pocket expenses (other than sustenance), which may include-
- (i) railway fares;
- (ii) use of a pedal cycle, at the rate of one fee unit per kilometre;
- (iii) use of an auto-cycle, moped or motor cycle, at the rate of one fee unit per kilometre, calculated in total to the nearest unit above a fraction;
- (iv) use of a motor vehicle (other than an auto-cycle, moped or motor cycle), at the rate of one fee unit per kilometre;
- (v) use or hire of boats or canoes, at the current local rate;
- (c) a sustenance allowance at the rate of ten fee units for the first twelve hours and ten fee units for each successive complete period of twelve hours and ten fee units for any incomplete period of twelve hours

thereafter, during which the serving officer is employed in the service of a particular process.

(12) In any case where a court has directed that service shall be effected by registered letter or advertisement, the provisions herein as to fees, expenses and allowances shall not apply and the cost of advertisement shall be allowable by the party paying the same.

(As amended by Act No. 236 of 1977 and No. 13 of 1994)

REPUBLIC OF ZAMBIA

THE CONTEMPT OF COURT
(MISCELLANEOUS PROVISIONS) ACT

CHAPTER 38 OF THE LAWS OF ZAMBIA

CHAPTER 38 THE CONTEMPT OF COURT (MISCELLANEOUS PROVISIONS) ACT CHAPTER 38

THE CONTEMPT OF COURT
(MISCELLANEOUS PROVISIONS) ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Innocent publication and distribution of any matter calculated to interfere with the course of justice
3. Publication of information relating to court proceedings in private
4. Restriction on publication of matrimonial proceedings
5. Appeals

CHAPTER 38

CONTEMPT OF COURT 32 of 1965
32 of 1967
13 of 1994

(MISCELLANEOUS PROVISIONS)

An Act to amend the law relating to contempt of court and to restrict the publication of the details of certain proceedings and for purposes connected therewith.

[4th June, 1965]

1. This Act may be cited as the Contempt of Court (Miscellaneous Provisions)

Act.Short title

2. (1) A person shall not be guilty of contempt of court on the ground that he has published any matter calculated to interfere with the course of justice in connection with any proceedings pending or imminent at the time of publication if at that time (having taken all reasonable care) he did not know and had no reason to suspect that the proceedings were pending, or that such proceedings were imminent, as the case may be. Innocent publication and distribution of any matter calculated to interfere with the course of justice

(2) A person shall not be guilty of contempt of court on the ground that he has distributed a publication containing such matter as is mentioned in subsection (1) if at the time of distribution (having taken all reasonable care) he did not know that it contained any such matter as aforesaid and had no reason to suspect that it was likely to do so.

(3) The proof of any fact tending to establish a defence afforded by this section to any person in proceedings for contempt of court shall lie upon that person.

3. (1) The publication of information relating to proceedings before any court sitting in private shall not of itself be contempt of court except in the following cases, that is to say: Publication of information relating to court proceedings in private

(a) where the proceedings relate to the wardship or adoption of an infant or wholly or mainly to the guardianship, custody, maintenance or upbringing of an infant, or rights of access to an infant;

(b) where the proceedings are brought under the law for the time being in force in Zambia with respect to the control, care or detention of, or to the estates and property of, mentally disordered or defective persons;

(c) where the court sits in private for reasons of national security during that part of the proceedings about which the information in question is published;

(d) where the information relates to a secret process, discovery or invention which is in issue in the proceedings;

(e) where the court (having power to do so) expressly prohibits the publication of all information relating to the proceedings or of information of the description which is published;

(f) where the proceedings are an appeal under the law with respect to income tax.

(2) Without prejudice to subsection (1), the publication of the text or a summary of the whole or part of an order made by a court sitting in private shall not of itself be contempt of court except where the court (having power to do so) expressly prohibits the publication.

(3) In this section, references to a court include references to a Judge or magistrate and to a tribunal and to any person exercising the functions of a court, a Judge or a tribunal; and references to a court sitting in private include references to a court sitting in camera or in chambers.

(4) Nothing in this section shall be construed as implying that any publication is punishable as contempt of court which would not be punishable apart from this section.

(As amended by No. 32 of 1967)

4. (1) It shall not be lawful to print or publish or cause or procure to be printed or published—Restriction on publication of matrimonial proceedings

(a) in relation to any judicial proceedings, any indecent matter or indecent medical, surgical or physiological details being matter or details the publication of which would be calculated to injure public morals;

(b) in relation to any judicial proceedings for dissolution of marriage, for nullity of marriage, or for judicial separation, or for restitution of conjugal rights, any particulars other than the following, that is to say:

(i) the names, addresses and occupations of the parties and witnesses;

(ii) a concise statement of the charges, defences and countercharges in support of which evidence has been given;

(iii) submissions on any point of law arising in the course of the proceedings, and the decisions of the court thereon;

(iv) the judgment of the court and observations made by the Judge or magistrate in giving judgment:

Provided that nothing in this paragraph shall be held to permit the publication of anything contrary to the provisions of paragraph (a).

(2) If any person contravenes any provision of subsection (1), he shall be guilty of an offence and shall be liable on conviction to imprisonment for six months, or to a fine not exceeding fifteen thousand penalty units, or to both:

Provided that no person, other than a proprietor, editor, master printer or publisher, shall be liable to be convicted under this section.

(3) No prosecution for an offence under this section shall be commenced by any person without the written consent of the Director of Public Prosecutions.

(4) Nothing in this section shall apply to the printing of any pleading, transcript of evidence or other document for use in connection with any judicial proceedings or the communication thereof to persons concerned in the proceedings, or to the printing or publishing of any notice or report in pursuance of the directions of the court, or to the printing or publishing of any matter in any separate volume or part of any bona fide series of law reports which does not form part of any other publication and consists solely of reports of proceedings in courts of law, or in any publication of a technical character bona fide intended for circulation among members of the legal or medical profession.

(As amended by Act No. 13 of 1994)

5. (1) Subject to the provisions of this section, an appeal shall lie under this section from any order or decision of a court in the exercise of jurisdiction to punish for contempt of court (including criminal contempt); and

in relation to any such order or decision, the provisions of this section shall have effect in substitution for any other written law relating to appeals in civil or criminal proceedings. Appeals

(2) An appeal under this section shall lie in any case at the instance of the person against whom the order or decision has been made and, in the case of an applicant for committal or attachment, at the instance of the applicant; and the appeal shall lie-

(a) from the order or decision of any subordinate court, to the High Court;

(b) from an order or decision of the High Court, to the Supreme Court.

(3) The court to which an appeal is brought under this section may exercise any of the powers conferred upon it in relation to the hearing and determining of appeals generally by the Criminal Procedure Code or Supreme Court of Zambia Act, and without prejudice to the inherent powers of any court referred to in subsection (2), provision may be made by rules of court for authorising the release on bail of an appellant under this section. Cap. 88
Cap. 25

(4) Without prejudice to the provisions of this Act, an appeal under this section shall be lodged and prosecuted in compliance with the provisions of the Criminal Procedure Code or the Supreme Court of Zambia Act, as appropriate. Cap. 88
Cap. 25

(5) In this section, "court" includes any tribunal or person having power to punish for contempt; and references in this section to an order or decision of a court in the exercise of jurisdiction to punish for contempt of court includes references to an order or decision of the High Court or a subordinate court under any enactment enabling that court to deal with an offence as if it were contempt of court.

(6) This section shall not apply to a conviction or sentence in respect of which an appeal lies under the Criminal Procedure Code. Cap. 88

REPUBLIC OF ZAMBIA

THE COMMISSION FOR INVESTIGATIONS ACT

CHAPTER 39 OF THE LAWS OF ZAMBIA

CHAPTER 39 THE COMMISSION FOR INVESTIGATIONS ACT CHAPTER 39

THE COMMISSION FOR INVESTIGATIONS ACT

ARRANGEMENTS OF SECTION

PART I

PRELIMINARY

Section

1. Short title

2. Interpretation
3. Application

PART II

ESTABLISHMENT OF COMMISSION AND APPOINTMENTS

4. The Commission
5. Commissioners
6. Secretary and staff
7. Oaths on appointment

PART III

POWERS AND PROCEDURE

8. Jurisdiction
9. Provisions relating to complaints and allegations
10. No inquiry in certain cases
11. Commission to act notwithstanding finality, etc.
12. Orders by Commission
13. Power to summon witnesses
14. Production of documents and furnishing information
15. Power to enter premises
16. Inquiries to be in camera
17. Evidence and procedure
18. Witness allowance
19. Offences relating to witnesses, etc.

PART IV

REPORTS AND ENFORCEMENT

Section

20. Submission of reports to President and National Assembly
21. Enforcement and notification of result
22. Reports to Parliament

PART V

IMMUNITIES OF THE COMMISSION

23. Finality of Commission's acts
24. Immunity of Members and staff of Commission and other persons

PART VI

RULES AND TRANSITIONAL

25. Rules
26. Obsolete

FIRST SCHEDULE-Oaths on appointment

SECOND SCHEDULE-Prescribed forms

CHAPTER 39

COMMISSION FOR INVESTIGATIONS ACT 20 of 1991
11 of 1995

An Act to establish a Commission for Investigations, to provide for its powers, privileges and immunities and to provide for matters connected with or incidental to the foregoing.

[6th September, 1991]

PART I

PRELIMINARY

1. This Act may be cited as the Commission for Investigations Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation

"chairman" in relation to the Commission means the Investigator-General; or any Commissioner elected as such at any meeting of the Commission;

"Commission" means the Commission for Investigations established by this Act;

"Commissioner" means a member of the Commission other than the Investigator-General;

"the Court" means the High Court;

"high judicial office" means the office of a judge of a court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in the Republic of Ireland or the office of a judge of a court having jurisdiction

in appeals from such a court;

"Investigator-General" means the Investigator-General appointed under the Constitution.

"local authority" means a council established under the Local Government Act and any other authority declared by Act of Parliament to be a local authority;Cap. 281

"Member" in relation to the Commission means a Commissioner or the Investigator-General;

"Secretary" means the person appointed under section six to be the secretary of the Commission;

3. (1) This Act shall apply to-Application

(a) any person in the service of the Republic;

(b) the members and persons in the service of local authority;

(c) the members and persons in the service of any institution or organisation, whether established by or under an Act of Parliament or otherwise, in which the Government holds a majority of shares or exercises financial or administrative control;

(d) the members and persons in the service of any Commission established by or under the Constitution or any Act of Parliament;

but shall not apply to the President.

(2) Notwithstanding subsection (1), the Commission shall have no power to question or receive any decision of any court or of any judicial officer in the exercise of his judicial functions, or any decision of a tribunal established by law for the performance of judicial functions in the exercise of such functions, or any matter relating to the exercise of the prerogation of mercy.

PART II

ESTABLISHMENT OF COMMISSION AND APPOINTMENTS

4. (1) There is hereby established a Commission for Investigations which shall consist of an Investigator-General and three Commissioners who shall be appointed by the President.The Commission

(2) The Commission may act notwithstanding any vacancy or the absence of any member.

Provided that, unless the National Assembly by resolution confirms the appointment in the sitting of the National Assembly next succeeding his appointment, the appointment of a Commissioner shall be terminated at the end of that sitting.

(As amended by Act No. 11 of 1995)

5. (1) A person shall not be qualified for appointment as a Commissioner if he holds the office of President, Vice President, Minister or Deputy Minister or if

he is a member of the National Assembly (or a public officer).Commissioners

(2) A person who, whether before or after the commencement of this subsection, has been appointed a Commissioner shall vacate office at the expiration of three years from the date of his appointment, and shall thereafter be eligible to be once re-appointed for a further term of three years:

Provided that, unless the National Assembly by resolution confirms any such re-appointment in the sitting of the National Assembly next succeeding the re-appointment, the re-appointment shall be terminated at the end of that sitting, and the person concerned shall not be eligible for appointment for any further term as a Commissioner within three years after the end of his first term.

(3) A person appointed a Commissioner may be removed from office by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or for any other reason) or for misbehavior.

(As amended by Act No. 11 of 1995)

6. The Commission shall employ a secretary and such other members of the staff of the Commission as the Commission may determine who shall be public officers. Secretary staff

7. (1) Every Member shall, on appointment, take an oath in the form set out in Part I of the First Schedule.Oaths on appointment

(2) The Secretary and such other members of the staff of the Commission as the Chairman may require so to do shall, on appointment, take an oath in the form set out in Part II of the First Schedule.

(3) Where any person is required to take an oath under the provisions of this section and-

(a) he has no religious belief; or

(b) the taking of an oath is contrary to his religious belief;

he may take a solemn affirmation in the form of an oath on appointment substituting the words "solemnly and sincerely declare and affirm" for word "swear" and omitting the words "So Help Me God".

(4) Every oath or affirmation taken by a Member shall be administered by the President and every oath or affirmation taken by the secretary or any other member of the staff of the Commission shall be administered by a Judge.

PART III

POWER AND PROCEDURE

8. The Commission shall have jurisdiction to inquire into the conduct of any person to whom this Act applies in the exercise of his office or authority, or in abuse thereof-

(a) whenever so directed by the President; and

(b) unless the President otherwise directs, in any case in which it considers that an allegation of maladministration or abuse of office or authority by any such person ought to be investigated. Jurisdiction

9. (1) A complaint or allegation under this Act may be made by any individual, or by any body of persons whether incorporate or not. Provisions relating to complaints and allegations

(2) Any such complaint or allegations may be made orally or in writing and shall be addressed to the secretary who shall, in the case of an oral complaint or allegation, reduce the same to writing.

(3) Every complaint or allegation shall be signed or thumb printed by the person making it.

(4) No complaint or allegation shall be received by the Commission unless it is made within a period of two years from the date on which the facts giving rise to any such complaint or allegation became known to the person making the complaint or allegation:

Provided that the Commission may in its absolute discretion receive complaints or allegations not made within the said period.

10. (1) No investigations under this Act shall be conducted concerning any allegation or grievance where the complainant or the person aggrieved has, or has had at any material time, the right or opportunity of obtaining relief or seeking redress by means of: No inquiry in certain cases

(a) an application or representation to any executive authority; or

(b) an application, appeal, reference or review to or before a tribunal established by or under any law; or

(c) proceedings in a court of law.

Provided that the Commission may conduct an investigation where it is satisfied that, in the particular circumstances of the case, it would be unreasonable to expect the complainant or the person aggrieved to resort or to have resorted to any of the foregoing means without fear, or undue hardships, expense or delay.

(2) The Commission may refuse to conduct, or may decide to discontinue, an investigation where it is satisfied that-

(a) the complaint is trivial, frivolous, vexatious or not made in good faith; or

(b) the inquiry would be unnecessary, improper or fruitless.

(3) The Commission shall, in any case in which it decides not to conduct an investigation, or decides to discontinue an investigation, inform the complainant in writing accordingly but shall not be bound to give any reasons therefor.

11. Subject to the provisions of this Act, the Jurisdiction and powers conferred on the Commission may be exercised notwithstanding any provision in any written law to the effect that an act or omission shall be final, or that no appeal shall lie in respect thereof, or that no proceeding or decision shall be

challenged, reviewed, quashed or called in question. Commission to act notwithstanding finality, etc.

12. Where it appears to the Commission that any inquiry under this Act is likely to be frustrated or prejudiced by an action taken or about to be taken by any person to whom the Act applies, the Commission may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of conducting any investigation, and any such order, writ or direction shall have the same force as an order, writ or direction of the Court. Orders by Commission

13. (1) The Commission shall have the power to summon witnesses and to examine witnesses under oath and for such purposes all the Members are hereby authorised to administer oaths. Power to summon witnesses

(2) A summons for the attendance of a witness or the production of documents shall be in 1-G Form 3 set out in the Second Schedule and shall be served in the same manner as if it were a subpoena for the attendance of a witness at a civil trial in the Court.

(3) The Commission may by warrant order the arrest of any person who, having reasonable notice of the time and place at which he is required to attend before the Commission, fails to do so and any such warrant shall be in 1-G Form 4 set out in the Second Schedule and shall be served as if it were a warrant issued by the Court.

14. Subject as hereinafter provided, the Commission may, for the purposes of an inquiry under this Act, require any person who in its opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document, and no obligation to maintain secrecy or other restriction upon the disclosure of information, whether imposed by law or otherwise, shall apply to the disclosure of information for the purposes of an investigation under this Act; and the Republic shall not be entitled in relation to any such investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings: Productions of documents and furnishing information

Provided that where the President certified that the giving of any information, or the production of any document-

(i) might prejudice the security, defence or international relations of the Republic or the investigation or detection of offences; or

(ii) might involve the disclosure of the deliberations of the Cabinet or any sub-committee of the Cabinet relating to matters of a secret or confidential nature and would be injurious to the public interest;

the Commission shall not require the information to be given or, as the case may be, the document to be produced.

15. For the purposes of this Act, the Commission may by warrant in 1-G Form 7 set out in the Second Schedule enter upon any premises and thereon carry out any inspection for the purposes of an investigation: Power to enter premises

Provided that where the President certifies that entry upon or inspection of any premises-

(i) might prejudice the security, defence or international relations of the Republic, or the investigation or detection of offences; or

(ii) might involve the disclosure of the deliberations of the Cabinet or any sub-committee of the Cabinet relating to matters of a secret or confidential nature, and would be injurious to the public interest;

the Commission shall not enter upon or inspect any such premises.

16. Every investigation shall be conducted in camera. Investigations to be in camera

17. (1) The procedure for conducting an investigation shall be such as the Investigator-General considers appropriate in the circumstances of the case, and without prejudice to the generality of the foregoing provisions-Evidence and procedure

(a) the Investigator-General may authorise any member of the Commission to exercise any of the powers of the Commission for the purposes of an investigation, and

(b) the Commission may obtain information from such persons in such manner, and make such investigations, as it thinks fit.

(2) No person shall as of right be entitled to be represented by a legal practitioner or to be heard:

Provided that where the Commission proposes to conduct an investigation pursuant to a complaint or allegation under this Act, it shall afford to the principal Officer of any department or authority concerned, and to any other person who is alleged to have taken or authorised the action complained of, an opportunity to comment on any allegations made to the Commission, and no comment that is adverse to any person, department or authority shall be contained in a report to the President unless such person, department or authority has been afforded the opportunity aforesaid.

18. A person summoned as a witness under this Act may, on the order of the Commission, be paid from moneys appropriated by Parliament for the purpose of such allowances as may be prescribed by the Commission. Witness allowance

19. (1) If any person-Offences relating to witnesses, etc.

(a) being a witness before the Commission without lawful excuse refuses to be sworn or affirmed, or having been sworn or affirmed refuses to answer fully and satisfactorily any question lawfully put to him; or

(b) having been sworn or affirmed knowingly gives false testimony touching any matter which is material to any question under investigation;

(c) wilfully insults, interrupts or otherwise obstructs any member or any member of the staff of the Commission in the performance of his functions under this Act;

(d) wilfully disobeys any order made under section thirteen;

he shall be guilty of an offence and the Commission may certify such offence to

the Court and may by warrant in I-G Form 10 set out in the Second Schedule order the arrest of any such person.

(2) Where any person is arrested pursuant to an order of the Commission or an offence is certified under this section, the Court may inquire into the matter and deal with the person charged in any manner in which the Court could deal with him if he had committed the like offence in relation to the Court

PART IV

REPORTS AND ENFORCEMENT

Submission of reports to the President

20. The Commission shall submit to the President a report of every investigation it has conducted which shall contain-

(a) a summary of the evidence taken together with the conclusions and recommendations of the Commission;

(b) a statement of any action that has been taken by any person whose conduct is under investigation or by the department or authority of which such person is a member or in which he is employed, to correct or ameliorate any conduct, procedure, act or omission that is adversely commented on in the report;

(c) where any person has suffered loss or injury as a result of any alleged misconduct, maladministration or abuse of office or authority by any person whose conduct is under investigations, and the Commission has found allegations to be true, the Commission may in its recommendations state that compensation should be paid to the person who has suffered such loss of injury or to any dependent of such person, and shall determine the sum which it recommends as compensation. Submission of reports to President and National Assembly

21. (1) The President may, on receipt of the report of the Commission on any investigation conducted by it, or during the continuance of any such investigation, take such decision in respect of the matter investigated or being investigated into by the Commission as he thinks fit. Enforcement and notification of result

(2) When the commission receives such decision, it shall, as soon as may be-

(a) notify the complainant in I-G Form 8 set out in the Second Schedule of the result of the investigation into his complaint or allegation;

(b) inform in I-G Form 9 set out in the Second Schedule the person against whom the complaint or allegation was made of the effect of the President's decision, in so far as the same may be known to the Commission.

(3) A report required to be submitted to the National Assembly shall not disclose the identity or contain any statement which may point to the identity of any person into whose conduct an investigation has been or is about to be made.

(4) Failure on the part of any person, body or authority to comply with any order given by the Commission under subsection (2) may be investigated by the Commission and reported to the President, as if it were an investigation conducted under the provisions of this Act.

(5) Any sum of money directed by the President to be paid as compensation following a recommendation made in accordance with paragraph (c) of section twenty shall be a charge on the general revenues of the Republic.

22. (1) The Commission shall, as soon as may be after the 31st December in each year submit a report on its operations to the National Assembly. Report to Parliament

(2) A report under this section shall not disclose the identity or contain any statement which may point to the identity of any person into whose conduct an investigation has been or is about to be made.

PART V

IMMUNITIES OF THE COMMISSION

23. No investigation, proceeding, process or report of the Commission shall be held bad for any error or irregularity of form or be challenged, reviewed, quashed or called in question in any court save on the ground of lack of jurisdiction. Finality of Commissions acts

24. (1) No proceedings, civil, or criminal, shall lie against any member or member of the staff of the Commission, for anything done in good faith in the course of the exercise of his functions under this Act. Immunity of members and staff of Commission and other persons

(2) Subject to the provisions of this Act, no member or any such person as aforesaid shall be called to give evidence before any court or tribunal in respect of anything coming to his knowledge in the exercise of his functions under this Act.

PART VI

RULES

25. The Commission may, by statutory instrument, make rules prescribing anything which under this Act may be prescribed. Rules

26. Obsolete.

I-G Form 1

FIRST SCHEDULE

PART I

(Section 7 (1))

OATH OF MEMBER OF COMMISSION

I,
having been appointed as Investigator-General/Commissioner of the Commission for Investigations, do swear that I will, without fear or favour, affection or ill-will, discharge the functions of the office of Investigator-General/Commissioner of the Commission for Investigations, and that I will not, directly or indirectly, reveal any matters relating to such functions to any unauthorised persons or otherwise than in the course of duty.

SO HELP ME GOD

Sworn/Declared before me this day of 19..... .

President

I-G Form 2

PART II

(Section 7 (2))

OATH OF SECRETARY OR STAFF OF COMMISSION

I, having
been appointed to exercise the functions of secretary of the Commission/a member
of the staff of the Commission, do swear that I will not, directly or
indirectly, reveal to any unauthorised person or otherwise than in the course of
duty the contents or any part of the contents of any document, communication or
information whatsoever which may come to my knowledge in the course of my duties
as such.

SO HELP ME GOD

Sworn/Declared before me this day of

19

Judge

I-G Form 3

SECOND SCHEDULE

PRESCRIBED FORMS

REPUBLIC OF ZAMBIA

COMMISSION FOR INVESTIGATIONS

COMMISSION FOR INVESTIGATIONS ACT

(Section 13 and 14)

SUMMONS TO WITNESS

Inquiry No. 19.....

To (full name)
of
(full address)

You are commanded in the President's name to attend before this Commission at (place) on the of day, 19....., at hours and so from day to day until your attendance is dispensed with, to give evidence in the said inquiry; and also to bring with you and to produce at the said time and place the following documents:

Dated the day of, 19.....

Chairman/Member

I-G Form 4

REPUBLIC OF ZAMBIA

COMMISSION FOR INVESTIGATIONS

COMMISSION FOR INVESTIGATIONS ACT

(Section 13 (3))

WARRANT OF ARREST

Inquiry No. 19.....

To (Police Officer and other Officers)

Whereas Mr/Mrs/Miss (full name) of (address) was commanded to appear before the Commission at (place) on the day of , 19..... and subsequent days to testify what he/she knew and/or to produce specified documents in relation to the above stated inquiry and the said Mr/Mrs/Miss has not appeared according to the summons issued in that regard and has not excused his/her failure;

NOW THEREFORE, you are hereby commanded in the name of the President to apprehend, bring and have the said before this Commission at (place) on the day of 19.....

Issued at the day of 19.....

Chairman/Member

I-G Form 7

REPUBLIC OF ZAMBIA

COMMISSION FOR INVESTIGATIONS

COMMISSION FOR INVESTIGATIONS ACT

(Section 15)

WARRANT OF ENTRY AND INSPECTION

Inquiry No. 19.....

To

(Member(s) of the Commission or member(s) of the staff of the Commission)

WHEREAS a complaint has been lodged with the Commission for Investigations;

AND WHEREAS the Commission has decided to conduct an investigation into the alleged complaint;

NOW THEREFORE, you are hereby authorised and commanded in the name of the President with proper assistance, to enter the premises of

(name of place or person)

(in the day time), and there diligently carry out any inspection and collect any oral and documentary evidence concerning the said inquiry from the said premises and bring it before the Commission for Investigations to be used for the purpose of the said investigation.

Issued at the day of 19..... .

Chairman/Member

I-G Form 8

REPUBLIC OF ZAMBIA

COMMISSION FOR INVESTIGATIONS

COMMISSION FOR INVESTIGATIONS ACT

(Section 21)

In the Matter of:

In the matter of section 21 of the Commission for Investigations Act.

RESULT OF COMPLAINT

WHEREAS a complaint/allegation in terms of the aforesaid matter was made on the day of , 19..... ,

AND WHEREAS at the conclusion of the investigation a report on the proceedings thereof was submitted to His Excellency the President in accordance with section 20 of the Act:

AND WHEREAS his Excellency the President did on the day of , 19 , make known to the Commission his decision in the matter aforesaid:

NOW THEREFORE, in accordance with section 21 of the Commission for Investigations Act, you are hereby notified that the following is the result of the aforesaid investigation:

Chairman

.....
Signed at Lusaka

Member this

.....
day of

Member 19

I-G Form 9

REPUBLIC OF ZAMBIA

COMMISSION FOR INVESTIGATIONS

COMMISSION FOR INVESTIGATIONS ACT

(Section 21)

In the matter of:

In the matter of section 21 of the Commission for Investigation Act:

DECISION BY THE PRESIDENT

WHEREAS an investigation was conducted by the Commission into the aforesaid matter and concluded on the day of , 19..... :

AND WHEREAS at the conclusion of the investigation a report on the proceedings thereof was submitted to His Excellency the President in accordance with section 21 of the Act.

AND WHEREAS His Excellency the President did on the day of _____, 19....., make known to the Commission his decision in the matter aforesaid:

NOW THEREFORE, in accordance with section 21 of the Commission for Investigations Act, you are hereby informed that His Excellency the President's decision in the aforesaid matter is as follows:

Chairman

.....
Signed at Lusaka

Member this

.....
day of

Member 19

.....

Member

I-G Form 10

REPUBLIC OF ZAMBIA

COMMISSION FOR INVESTIGATIONS

COMMISSION FOR INVESTIGATIONS ACT, 1991

(Section 19 (1))

WARRANT OF ARREST

Inquiry No. 19.....

To (police officer or other officers)

WHEREAS (full name) of (address) is accused of (state the offence with time and place)

NOW THEREFORE, you are hereby commanded in the name of the President forthwith to apprehend the said and produce him before the Commission for Investigations at (place) on theday of19

Issued at theday of19.....

Chairman/Member

SUBSIDIARY LEGISLATION

THE COMMISSION FOR INVESTIGATIONS RULES

ARRANGEMENT OF RULES

PART I

PRELIMINARY

Rules

1. Title
2. Interpretation

PART II

GENERAL

3. Procedure
4. Investigations

PART III

COMPLAINTS AND ALLEGATIONS

5. Making a complaint or allegation
6. Complaints and allegations to be referred to the Chairman
7. Complaints and allegations to be in confidence
8. Decision to conduct investigation

PART IV

CONDUCT OF INVESTIGATIONS

9. Summoning parties and witnesses
10. Chairman to preside
11. Summary of proceedings
12. Communication of result to complainant
13. Report to President

COMMISSION FOR INVESTIGATIONS RULES

Rules by the Commission Statutory Instrument
151 of 1974

PART I

PRELIMINARY

1. These Rules may be cited as the Commission for Investigations Rules. Title

2. In these Rules, unless the context otherwise requires- Interpretation

"Chairman" means the Investigator-General;

"Commission" means the Commission for Investigations established by Article 117 of the Constitution;

"Commissioner" means a Member of the Commission other than the Investigator-General;

"Secretary" means the person appointed to be the Secretary of the Commission.

PART II

GENERAL

3. (1) The procedure for conducting an investigation shall be such as the Chairman considers appropriate in the circumstances of the case. Procedure

(2) Without prejudice to the generality of sub-rule (1), the Commission shall in conducting investigations be guided by these Rules.

4. If the Commission considers that an investigation ought to be held in any matter it may, at its own instance or on the application of any aggrieved person, hold an investigation and shall do so whenever so directed by the President. Investigations

PART III

COMPLAINTS AND ALLEGATIONS

5. (1) A complaint or allegation may be made in any of the ways and by any of the persons following, that is to say- Making a complaint or allegation

(a) orally by an aggrieved person or his authorised representative; or

(b) in writing by an aggrieved person or his authorised representative.

(2) An oral complaint or allegation shall be made to the Secretary who shall thereupon reduce the same to writing.

(3) All written complaints or allegations shall be addressed to the Secretary.

(4) Every complaint or allegation shall be signed or thumb-printed by, and shall bear the full name and address of, the person making it.

(5) No fee shall be payable in respect of any complaint or allegation filed with the Commission.

6. The Secretary shall, as soon as may be after the receipt of any complaint or allegation, refer the same to the Chairman together with all the documents submitted therewith. Complaints and allegations to be referred to Chairman

7. (1) All complaints and allegations made to the Commission shall be marked "Confidential" and no complaint or allegation or the contents thereof or any document submitted therewith shall be disclosed to any person or authority and no person or authority shall in any way demand, request or solicit to be informed of any matter which has been or is about to be submitted to the Commission: Complaints and allegations to be in confidence

Provided that nothing herein contained shall apply to any report or disclosure which the Commission is lawfully required to make.

(2) Any person who contravenes the provisions of this rule shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five hundred penalty units or to imprisonment for a period not exceeding three months or to both.

(3) The Commission may, in its discretion, decline to entertain any complaint or allegation which is known to have been disclosed to any person or authority.

(As amended by Act No. 13 of 1994)

8. (1) The Chairman shall, on receipt from the Secretary of all the documents relating to a complaint or allegation into which the Commission has discretion to inquire, consult with the Commissioners as to whether or not an investigation should be conducted. Decision to conduct an investigation

(2) Where the Commission considers that an investigation should not be conducted, it shall direct the Secretary to inform the complainant in writing and no reason shall be given for the refusal by the Commission to conduct any investigation.

(3) Where the Commission is directed by the President to conduct an investigation, and in any case in which the Commission considers that an investigation should be conducted, the Chairman shall give directions relating to the manner in which the investigation shall be conducted.

PART IV

CONDUCT OF INVESTIGATIONS

9. (1) The Commission may, if it thinks fit, summon the parties to an investigation and their witnesses, if any, to appear and give evidence at the Commission's premises in Lusaka or at such other place or places as the Commission may determine. Summoning parties and witnesses

(2) The Commission may, if it thinks fit, dispense with the personal attendance of any witness or any party to an investigation and may receive affidavits or require any such witness or party to tender evidence on affidavit instead of or in addition to any oral testimony.

(3) All persons appearing before the Commission as parties to an investigation, or as witnesses or interpreters shall, before tendering evidence or entering upon their duties, as the case may be, take an oath or make a solemn declaration

or affirmation in such form and in such manner as the Chairman may direct.

(4) No person shall as of right claim to be present or to be represented when any witness or any party to an investigation is giving evidence.

(5) Unless the Chairman otherwise directs, no person other than a Member shall put questions to or in any way examine any witness or party to an investigation.

(6) The rules of evidence applying to the conduct of proceedings before a court of law shall apply to an investigation only to such extent and with such modifications as the Chairman may determine.

10. (1) The Chairman shall preside at all the investigations conducted by the Commission. Chairman to preside

(2) The quorum for the conduct of any investigations shall be three Members.

11. As soon as may be after the determination of an investigation, the Chairman may direct the Secretary to prepare a report containing a summary of the evidence heard and the Commission's conclusions, observations and recommendations in relation thereto. Summary of proceedings

12. The Secretary shall inform the complainant of the result of an investigation at such time and in such manner as the Chairman may direct. Communication of result to complainant

13. As soon as may be after the conclusion of an investigation, the Chairman shall personally present to His Excellency the President a report in respect thereof, and shall as soon as practicable after the 31st December in each year cause a report to be presented to the National Assembly. Report to President

THE COMMISSION FOR INVESTIGATIONS (WITNESSES' ALLOWANCES AND EXPENSES) RULES.

Rules made by the Commission Statutory Instrument

152 of 1974

Act

13 of 1994

1. These Rules may be cited as the Commission for Investigations (Witnesses' Allowances and Expenses) Rules. Title

2. In these Rules, unless the context otherwise requires - Interpretation

"Chairman" means the Investigator-General;

"Commission" means the Commission for Investigations established by Article 117 of the Constitution;

"Commissioner" means a Member of the Commission other than the Investigator-General;

"Secretary" means the person appointed to be the Secretary of the Commission;

"witness" includes an interpreter.

3. These Rules shall apply to all witnesses summoned to appear before the Commission but shall not apply to any witness who is a public

officer.Application

4. A witness who has attended at or for the investigation at the instance of a party or the Commission shall be entitled to allowances unless the Commission shall for sufficient reason disallow the allowances of any such witness. Persons entitled to allowance

5. Subject as hereinafter provided, there shall be paid to any witness entitled thereto allowances calculated in accordance with the Schedule hereto. Allowances

6. (1) The payment of allowances to any witness described in Class A of the Schedule hereto shall be subject to the provisions of this rule. Payment of allowances to witnesses in Class A

(2) Where a witness has lost no wages, earnings or other income by reason of attending at or for an investigation, the sum payable to any such witness shall not, unless otherwise ordered by the Chairman, exceed ten fee units per day.

(3) Where a witness has lost wages, earnings or other income by reason of attending at or for an investigation but the period in respect of which such loss has been incurred does not exceed four hours, the sum payable to any such witness shall not, unless otherwise ordered by the Chairman, exceed sixty fee units per day.

(As amended by Act No. 13 of 1994)

7. There shall be taken into account in calculating allowances payable to a witness any time during which such witness is necessarily detained for the purposes of an investigation, and any time reasonably occupied in travelling to the venue of an investigation. Matters to be taken into account

8. No additional allowance will be paid merely because the witness attends in respect of more than one investigation on the same day. No additional allowance

9. If in the opinion of the Chairman a strict adherence to these Rules would result in hardship, he may in his discretion increase the amounts payable, and if in his opinion a reduction in any of the allowances provided for by these Rules is justified in any particular case, he may in his discretion reduce or disallow the amounts payable. Increases and reductions

10. (1) In addition to any sum to which a witness may be entitled under these Rules, all witnesses shall also be entitled to be reimbursed in respect of any expenses actually and reasonably incurred in travelling to and from the venue of an investigation, and for necessary accommodation and subsistence. Travelling expenses

(2) If in the opinion of the Chairman the sums expended and claimed exceed what is reasonable, he may in his discretion reduce or disallow the amounts payable.

(3) If any witness travels by his motor vehicle or motor cycle he may claim travelling expenses at the rate of one fee unit per kilometre and one fee unit per kilometre, respectively.

(As amended by Act No. 13 of 1994)

11. All claims for payment of allowances and expenses shall be submitted to

the Secretary. Claims to be submitted to Secretary

12. In the absence of the Chairman the powers and responsibilities vested in him by these Rules may be exercised or performed by a Commissioner.

Commissioner to act in absence of Chairman

SCHEDULE

(Rule 4)

WITNESSES' ALLOWANCES

	Minimum Sum	Maximum Sum		
	Payable	Payable		
Class of Person	Per Day	Per Day	Per Day	Per Day
	Fee units	Fee units		
A. Professional persons, owners, directors or managers of businesses and expert witnesses; clerks, artisans and persons of similar status			60	160
B. Peasants, labourers and persons of similar status			3	15

(As amended by Act No. 13 of 1994)

REPUBLIC OF ZAMBIA

THE ARBITRATION ACT

CHAPTER 40 OF THE LAWS OF ZAMBIA

CHAPTER 40 THE ARBITRATION ACT CHAPTER 40

THE ARBITRATION ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

GENERAL PROVISIONS RELATIING TO ARBITRATION BY CONSENT OUT OF COURT

3. Submission to be irrevocable except by leave of Court
4. Provisions implied in submissions
5. Reference to arbitrator to be appointed by third person
6. Power to stay proceedings where there is a submission
7. Power for Court in certain cases to appoint an arbitrator, umpire or third arbitrator
8. Power for parties in certain cases to supply vacancy
9. Power as to appointment of arbitrators where submission provides for three arbitrators
10. Power of arbitrator or umpire
11. Award to be signed and filed
12. Process to summon witnesses
13. Power for Court to enlarge time for making award
14. Power to remit award
15. Power to set aside award
16. Award when filed to be enforceable as a decree
17. Power to remove arbitrator or umpire
18. Costs
19. Prescribed forms
20. Rules
21. State to be bound
22. Application of Part II to arbitration under certain contracts
23. Application to statutory arbitration

Section

24. Saving for arbitrations commenced

PART III

PROVISIONS RELATING TO THE PROTOCOL SET FORTH
IN THE THIRD SCHEDULE

25. Staying of court proceedings in respect of matters to be referred to arbitration

PART IV

PROVISIONS RELATING TO THE CONVENTION SET
FORTH IN THE FOURTH SCHEDULE

26. Application of Part IV
27. Effect of foreign awards
28. Conditions for enforcement of foreign awards
29. Evidence
30. Meaning of "final award"
31. Saving

FIRST SCHEDULE-Provisions to be implied in submissions

SECOND SCHEDULE-Prescribed forms

THIRD SCHEDULE-Protocol on arbitration clauses

FOURTH SCHEDULE-Convention on the execution of foreign arbitral awards

CHAPTER 40

ARBITRATION

An Act relating to arbitration.

[5th April, 1933]

3 of 1933
Government Notice
497 of 1964
Statutory Instrument
152 of 1965

PART I

PRELIMINARY

1. This Act may be cited as the Arbitration Act.Short title
2. In this Act, unless the context otherwise requires-Interpretation

"the Court" means the High Court;

"submission" means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.

PART II

GENERAL PROVISIONS RELATING TO ARBITRATION BY CONSENT OUT OF COURT

3. A submission, unless a different intention is expressed therein, shall be

irrevocable, except by leave of the Court. Submission to be irrevocable except by leave of Court

4. A submission, unless a different intention is expressed therein, shall be deemed to include the provisions set forth in the First Schedule, in so far as they are applicable to the reference under submission. Provisions implied in submissions

5. The parties to a submission may agree that the reference shall be to an arbitrator or arbitrators to be appointed by a person designated therein. Such person may be designated either by name or as the holder for the time being of any office or appointment. Reference to arbitrator to be appointed by third person

6. Where any party to a submission to which this Part applies, or any person claiming under him, commences any legal proceedings against any other party to the submission or any person claiming under him, in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance, and before filing a written statement, or taking any other steps in the proceedings, apply to the Court to stay the proceedings; and the Court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission, and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings. Power to stay proceedings where there is a submission

7. (1) In any of the following cases: Power for Court in certain cases to appoint an arbitrator, umpire or third arbitrator

(a) where a submission provides that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator;

(b) if an appointed arbitrator neglects or refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy;

(c) where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator, and do not appoint him;

(d) where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties or arbitrators do not supply the vacancy;

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to concur in appointing an arbitrator, umpire or third arbitrator.

(2) If the appointment is not made within seven clear days after the service of the notice, the Court may, on application by the third party who gave the notice, and after giving the other party an opportunity of being heard, appoint an arbitrator, umpire or third arbitrator, who shall have the like powers to act in the reference, and make an award, as if he had been appointed by consent of all parties.

8. Where a submission provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless a different intention is expressed therein-

(a) if either of the appointed arbitrators refuses to act, or is incapable of acting, or dies, or is removed, the party who appointed him may appoint a new arbitrator in his place;

(b) if, on such a reference, one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with a written notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent:Power for parties in certain cases to supply vacancy

Provided that the Court may set aside any appointment made in pursuance of paragraph (b).

9. (1) Where a submission provides that the reference shall be to three arbitrators, one to be appointed by each party and the third to be appointed by the two appointed by the parties, then, unless the submission expresses a contrary intention-Power as to appointment of arbitrators where submission provides for three arbitrators

(a) if one party fails to appoint an arbitrator for seven clear days after the other party, having appointed his arbitrator, has served the party making default with notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and the award of the arbitrator so appointed shall be binding on both parties as if he had been appointed by consent;

(b) if after each party has appointed an arbitrator, the two arbitrators appointed fail to appoint a third arbitrator within seven clear days after the service by either party of a notice upon them to make the appointment, the Court may, on an application by the party who gave the notice, exercise in the place of the two arbitrators the power of appointing the third arbitrator;

(c) if an arbitrator, appointed either by one of the parties, by the arbitrators, or by the Court, refuses to act, or is incapable of acting, or dies, a new arbitrator may be appointed in his place by the party, arbitrators, or Court, as the case may be.

(2) The Court may set aside any appointment of a person to act as sole arbitrator made in pursuance of this section.

10. The arbitrators or umpire acting under a submission shall, unless a different intention is expressed therein, have power-

(a) to administer oaths to the parties and witnesses appearing;

(b) to state a special case for the opinion of the Court, on any question of law involved; and

(c) to correct in an award any clerical mistake or error arising from any accidental slip or omission.Power of arbitrator or umpire

11. (1) When the arbitrators or umpire have made their award, they shall sign it, and shall give notice to the parties of the making and signing thereof, and of the amount of the fees and charges payable to the arbitrators or umpire in respect of the arbitration and award. Award to be signed and filed

(2) The arbitrators or umpire shall, at the request of any party to the submission or any person claiming under him, and upon payment of the fees and charges due in respect of the arbitration and award, and of the costs and charges of filing the award, cause the award or a signed copy of it, to be filed in the Court; and notice of the filing shall be given to the parties by the arbitrators or umpire.

(3) Where the arbitrators or umpire state a special case under paragraph (b) of section ten, the Court shall deliver its opinion thereon; and such opinion shall be added to, and shall form part of, the award.

12. (1) The Court shall issue the same processes to the parties and any witness whom the arbitrator or umpire desires to examine, as the Court may issue in suits tried before it. Process to summon witnesses

(2) Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitrator or umpire during the investigation of the matters referred, shall be subject to the like disadvantages, penalties and punishments, by order of the Court on the representation of the arbitrator or umpire, as they would incur for the like offences in suits tried before the Court.

13. The time for making an award may, from time to time, be enlarged by order of the Court, whether the time for making the award has expired or not. Power for Court to enlarge time for making award

14. (1) The Court may, from time to time, remit the award to the reconsideration of the arbitrators or umpire. Power to remit award

(2) Where an award is remitted, the arbitrators or umpire shall, unless the Court otherwise directs, make a fresh award within three months after the date of the order remitting the award.

15. Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the Court may set aside the award. Power to set aside award

16. (1) An award on a submission on being filed in the Court in accordance with the foregoing provisions, shall (unless the Court remits it to the reconsideration of the arbitrators or umpire, or sets it aside) be enforceable as if it were a decree of the Court. Award when filed to be enforceable as a decree

(2) An award may be conditional or in the alternative.

17. Where an arbitrator or umpire has misconducted himself, the Court may remove him. Power to remove arbitrator or umpire

18. Any order made by the Court may be made on such terms as to costs or otherwise as the Court thinks fit. Costs

19. The forms set forth in the Second Schedule, or forms similar thereto, with such variations as the circumstances of each case require, may be used for the respective purposes there mentioned and, if used, shall not be called into question. Prescribed forms

20. The Court may make rules as to-

(a) the filing of awards and all proceedings consequent thereon or incidental thereto;

(b) the filing and hearing of special cases and all proceedings consequent thereon or incidental thereto;

(c) the staying of any suit or proceeding in contravention of a submission to arbitration; and

(d) the general conduct of all proceedings in court under this Act. Rules

21. The provisions of this Part shall be binding on the State.

(As amended by S.I. No. 152 of 1965) State to be bound

22. Whenever in any contract it is directed or agreed that any arbitration under or in pursuance of such contract shall be under the Arbitration Act, 1889, of the United Kingdom, such contract shall be read as if this Part were substituted for the aforesaid Act.

(As amended by S.I. No. 152 of 1965) Application of Part II to arbitration under certain contracts

23. This Part shall apply to arbitrations under any law applied to or any Act enacted in Zambia before or after the commencement of this Act as if the arbitration were pursuant to a submission, except in so far as this Part is inconsistent with the applied law or Act regulating the arbitration or with any rules or procedure authorised or recognised by that law or Act. Application to statutory arbitration

24. Nothing in this Part shall affect any matter already referred to arbitrators at the commencement of this Act, but this Part shall apply to every arbitration commenced after the commencement of this Act under any agreement or order previously made. Saving for arbitrations commenced

PART III

PROVISIONS RELATING TO THE PROTOCOL SET FORTH IN THE THIRD SCHEDULE

25. Notwithstanding anything in Part II herein, if any party to a submission made in pursuance of an agreement to which the Protocol on arbitration signed on behalf of His Britannic Majesty at a meeting of the Assembly of the League of Nations on the 24th September, 1923, which Protocol is set forth in the Third Schedule, applies, or any person claiming through or under him, commences any legal proceedings in any court against any other party to the submission or any person claiming through or under him, in respect of any matter agreed to be referred, any party to such legal proceedings may at any time after appearance, and before delivering any pleadings or taking other steps in the proceedings, apply to that court to stay the proceedings, and that court, unless satisfied that the agreement or arbitration has become inoperative or cannot proceed, or

that there is not in fact any dispute between the parties with regard to the matter agreed to be referred, shall make an order staying the proceedings.

(As amended by S.I. No. 152 of 1965) Staying of court proceedings in respect of matters to be referred to arbitration

PART IV

PROVISIONS RELATING TO THE CONVENTION SET FORTH IN THE FOURTH SCHEDULE

26. The provisions of this Part apply to any award made after the 28th July, 1924-

(a) in pursuance of an agreement for arbitration to which the Protocol set out in the Third Schedule applies; and

(b) between persons of whom one is subject to the jurisdiction of some one of such Powers as His Britannic Majesty, being satisfied that reciprocal provisions have been made, may have declared to be parties to the Convention on the Execution of Foreign Arbitral Awards signed at Geneva on behalf of His Britannic Majesty on the 26th September, 1927, which Convention is set forth in the Fourth Schedule, and of whom the other is subject to the jurisdiction of some other of the Powers aforesaid; and

(c) in one of such territories as His Britannic Majesty, being satisfied that reciprocal provisions have been made, may have declared to be territories to which the said Convention applies;

and an award to which the provisions of this Part apply is in this Part referred to as "a foreign award".

(As amended by S.I. No. 152 of 1965) Application of Part IV

27. (1) A foreign award shall, subject to the provisions of this Part, be enforceable in the Court either by action or under the provisions of section sixteen of Part II. Effect of foreign awards

(2) Any foreign award which would be enforceable under this Part shall be treated as binding for all purposes on the persons as between whom it was made, and may accordingly be relied on by any of those persons by way of defence, set-off or otherwise in any legal proceedings, and any references in this Part to enforcing a foreign award shall be construed as including references to relying on an award.

28. (1) In order that a foreign award may be enforceable under this Part, it must have-Conditions for enforcement of foreign awards

(a) been made in pursuance of an agreement for arbitration which was valid under the law by which it was governed;

(b) been made by the tribunal provided for in the agreement or constituted in manner agreed upon by the parties;

(c) been made in conformity with the law governing the arbitration procedure;

(d) become final in the country in which it was made;

(e) been in respect of a matter which may lawfully be referred to arbitration under the law of Zambia;

and the enforcement thereof must not be contrary to the public policy or the law of Zambia.

(2) Subject to the provisions of this subsection, a foreign award shall not be enforceable under this Part if the Court is satisfied that-

(a) the award has been annulled in the country in which it was made; or

(b) the party against whom it is sought to enforce the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case, or was under some legal incapacity and was not properly represented; or

(c) the award does not deal with all the questions referred or contains decisions on matters beyond the scope of the agreement for arbitration:

Provided that, if the award does not deal with all the questions referred, the Court may, if it thinks fit, either postpone the enforcement of the award or order its enforcement, subject to the giving of such security by the person seeking to enforce it as the Court may think fit.

(3) If a party seeking to resist the enforcement of a foreign award proves that there is any ground other than the non-existence of the conditions specified in paragraphs (a), (b), and (c) of subsection (1), or the existence of the conditions specified in paragraphs (b) and (c) of subsection (2), entitling him to contest the validity of the award, the Court may, if it thinks fit, either refuse to enforce the award or adjourn the hearing until after the expiration of such period as appears to the Court to be reasonably sufficient to enable that party to take the necessary steps to have the award annulled by the competent tribunal.

29. (1) The party seeking to enforce a foreign award must produce-Evidence

(a) the original award or a copy thereof duly authenticated in manner required by the law of the country in which it was made; and

(b) evidence proving that the award has become final; and

(c) such evidence as may be necessary to prove that the award is a foreign award and that the conditions mentioned in paragraphs (a), (b) and (c) of subsection (1) of section twenty-eight are satisfied.

(2) In any case where any document required to be produced under subsection (1) is in a foreign language, it shall be the duty of the party seeking to enforce the award to produce a translation certified as correct by a diplomatic or consular agent of the country to which that party belongs, or certified as correct in such other manner as may be sufficient according to the law of Zambia.

(3) Subject to the provisions of this section, the Court may make rules with respect to the evidence which must be furnished by a party seeking to enforce an award under this Part.

30. For the purposes of this Part, an award shall not be deemed final if any

proceedings for the purpose of contesting the validity of the award are pending in the country in which it was made. Meaning of "final award"

31. Nothing in this Part shall-

(a) prejudice any rights which any person would have had of enforcing in Zambia any award or of availing himself in Zambia of any award if this Part had not been enacted; or

(b) apply to any award made on an arbitration agreement governed by the law of Zambia.

Saving

FIRST SCHEDULE

(Section 4)

PROVISIONS TO BE IMPLIED IN SUBMISSIONS

1. If no other mode of reference is provided, the reference shall be to a single arbitrator.

2. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

3. The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them may, from time to time, enlarge the time for making the award.

4. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

5. The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire, by any writing signed by him, may, from time to time, enlarge the time for making his award.

6. The parties to the reference, and all persons claiming through them respectively shall, subject to any legal objection, submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for and do all other things which, during the proceedings on the reference, the arbitrators or umpire may require.

7. The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath.

8. The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.

9. The cost of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom, and in what manner, those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof and may award costs to be paid as between solicitor and client.

SECOND SCHEDULE

(Section 19)

PRESCRIBED FORMS

FORM 1

SUBMISSION TO SINGLE ARBITRATOR

In the matter of the Arbitration Act:

Whereas differences have arisen and are still subsisting between A. B., of

and
C. D., of
concerning

NOW WE, the said A. B. and C. D., do hereby agree to refer the said matters
in difference to the award of X. Y.

(Signed) A. B.

C. D.

Dated the 19..... .

FORM 2

APPOINTMENT OF SINGLE ARBITRATOR UNDER AGREEMENT TO REFER FUTURE DIFFERENCES TO ARBITRATION

In the matter of the Arbitration Act:

WHEREAS by an agreement in writing dated the day of 19....., and made between A. B., of and C. D., of it is provided that differences between the parties thereto shall be referred to an arbitrator as therein mentioned.

AND WHEREAS differences within the meaning of the said provision have arisen and are still subsisting between the said parties concerning

NOW WE, the said parties, A. B. and C. D., do hereby refer the said matters in difference to the award of X. Y.

(Signed) A. B.

C. D.

Dated the . 19.....

FORM 3

ENLARGEMENT OF TIME BY ARBITRATOR BY ENDORSEMENT ON SUBMISSION

In the matter of the Arbitration Act, and an arbitration between A. B., of
and C. D., of

I hereby enlarge the time of making my award in respect of the matters in
difference referred to me by the within (or above) submission until the
..... day of. 19..... .

(Signed) X. Y.,

Arbitrator

FORM 4

CASE STATED FOR OPINION OF COURT

In the matter of the Arbitration Act, and an arbitration between A. B., of

and C. D., of

The following special case is, pursuant to the provisions of paragraph (b) of section ten of the said Act, stated for the opinion of the High Court

(Here state the facts concisely in numbered paragraphs.)

The questions of law for the opinion of the said Court are:

First, whether

Secondly, whether

(Signed) X. Y.,

Arbitrator

Dated the 19..... .

FORM 5

AWARD

In the matter of the Arbitration Act, and an arbitration between A. B., of
and
C. D., of

WHEREAS, in pursuance of an agreement in writing dated the
day of 19....., made between
A. B., of and C. D.,
of ., the said A. B. and C. D. have referred to me, X. Y., the
matters in difference between them concerning (or as the case may be)

NOW, I, the said X. Y., having duly considered the matters submitted to me,
do hereby make an award as follows:

I award:

(1) That

(2) That

(Signed) X. Y.,

Arbitrator

Dated the 19

THIRD SCHEDULE

(Section 25)

PROTOCOL ON ARBITRATION CLAUSES

1. Each of the Contracting States recognises the validity of an agreement whether relating to existing or future differences between parties, subject respectively to the jurisdiction of different Contracting States by which the parties to a contract agree to submit to arbitration all or any differences that may arise in connection with such contract relating to commercial matters or to any other matter capable of settlement by arbitration, whether or not the arbitration is to take place in a country to whose jurisdiction none of the parties is subject.

Each Contracting State reserves the right to limit the obligation mentioned above to contracts which are considered as commercial under its national law. Any Contracting State which avails itself of this right will notify the Secretary-General of the United Nations, in order that the other Contracting States may be so informed.

2. The arbitral procedure, including the constitution of the arbitral tribunal, shall be governed by the will of the parties and by the law of the country in whose territory the arbitration takes place.

The Contracting States agree to facilitate all steps in the procedure which require to be taken in their own territories, in accordance with the provisions of their law governing arbitral procedure applicable to existing differences.

3. Each Contracting State undertakes to ensure the execution by its authorities and in accordance with the provisions of its national laws of arbitral awards made in its own territory under the preceding articles.

4. The tribunals of the Contracting Parties on being seized of a dispute regarding a contract made between persons to whom Article 1 applies and including an arbitration agreement whether referring to present or future differences which is valid in virtue of the said article and capable of being carried into effect, shall refer the parties on the application of either of them to the decision of the arbitrators.

Such reference shall not prejudice the competence of the judicial tribunals in case the agreement or the arbitration cannot proceed or become inoperative.

5. The present Protocol, which shall remain open for signature by all States, shall be ratified. The ratifications shall be deposited as soon as possible with the Secretary-General of the United Nations, who shall notify such deposit to all signatory States.

6. The present Protocol shall come into force as soon as two ratifications have been deposited. Thereafter it will take effect, in the case of each Contracting State, one month after the notification by the Secretary-General of the deposit of its ratifications.

7. The present Protocol may be denounced by any Contracting State on giving one year's notice. Denunciation shall be effected by a notification addressed to

the Secretary-General of the United Nations, who will immediately transmit copies of such notification to all the other signatory States and inform them of the date on which it was received. The denunciation shall take effect one year after the date on which it was notified to the Secretary-General, and shall operate only in respect of the notifying State.

8. The Contracting States may declare that their acceptance of the present Protocol does not include any or all of the undermentioned territories: that is to say, their colonies, overseas possessions or territories, protectorates or the territories over which they exercise a mandate.

The said States may subsequently adhere separately on behalf of any territory thus excluded. The Secretary-General of the United Nations shall be informed as soon as possible of such adhesions. He shall notify such adhesions to all signatory States. They will take effect one month after the notification by the Secretary-General to all signatory States.

The Contracting States may also denounce the Protocol separately on behalf of any of the territories referred to above. Article 7 applies to such denunciation.

FOURTH SCHEDULE

(Section 26)

CONVENTION ON THE EXECUTION OF FOREIGN ARBITRAL AWARDS

Article 1

In the territories of any High Contracting Party to which the present Convention applies, an arbitral award made in pursuance of an agreement, whether relating to existing or future differences (hereinafter called "a submission to arbitration") covered by the Protocol on Arbitration Clauses opened at Geneva on 24th September, 1923, shall be recognised as binding and shall be enforced in accordance with the rules of the procedure of the territory where the award is relied upon, provided that the said award has been made in a territory of one of the High Contracting Parties to which the present Convention applies and between persons who are subject to the jurisdiction of one of the High Contracting Parties.

To obtain such recognition or enforcement, it shall, further, be necessary-

- (a) that the award has been made in pursuance of a submission to arbitration which is valid under the law applicable thereto;
- (b) that the subject-matter of the award is capable of settlement by arbitration under the law of the country in which the award is sought to be relied upon;
- (c) that the award has been made by the arbitral tribunal provided for in the submission to arbitration or constituted in the manner agreed upon by the parties and in conformity with the law governing the arbitration procedure;
- (d) that the award has become final in the country in which it has been made, in the sense that it will not be considered as such if it is open to opposition appel or pourvoi en cassation (in the countries where such forms of procedure exist) or if it is proved that any proceedings for the purpose of contesting the

validity of the award are pending;

(e) that the recognition or enforcement of the award is not contrary to the public policy or to the principles of the law of the country in which it is sought to be relied upon.

Article 2

Even if the conditions laid down in Article 1 hereof are fulfilled, recognition and enforcement of the award shall be refused if the Court is satisfied-

(a) that the award has been annulled in the country in which it was made;

(b) that the party against whom it is sought to use the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case; or that being under a legal incapacity, he was not properly represented;

(c) that the award does not deal with the differences contemplated by or falling within the terms of the submission to arbitration or that it contains decisions on matters beyond the scope of the submission to arbitration.

If the award has not covered all the questions submitted to the arbitral tribunal, the competent authority of the country where recognition or enforcement of the award is sought can, if it thinks fit, postpone such recognition or enforcement or grant it subject to such guarantee as that authority may decide.

Article 3

If the party against whom the award has been made proves that, under the law governing the arbitration procedure, there is a ground, other than the grounds referred to in Article 1 (a) and (c), and Article 2 (b) and (c), entitling him to contest the validity of the award in a Court of Law, the Court may, if it thinks fit, either refuse recognition or enforcement of the award or adjourn the consideration thereof giving such party a reasonable time within which to have the award annulled by the competent tribunal.

Article 4

The party relying upon an award or claiming its enforcement must supply, in particular-

(a) the original award or a copy thereof duly authenticated, according to the requirements of the law of the country in which it was made;

(b) documentary or other evidence to prove that the award has become final, in the sense defined in Article 1 (d), in the country in which it was made;

(c) when necessary, documentary or other evidence to prove that the conditions laid down in Article 1, paragraph 1 and paragraph 2 (a) and (c), have been fulfilled.

A translation of the award and of the other documents mentioned in this Article into the official language of the country where the award is sought to be relied upon may be demanded. Such translation must be certified correct by a

diplomatic or consular agent of the country to which the party who seeks to rely upon the award belongs or by a sworn translator of the country where the award is sought to be relied upon.

Article 5

The provisions of the above Articles shall not deprive any interested party of the right of availing himself of an arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon.

Article 6

The present Convention applies only to arbitral awards made after the coming into force of the Protocol on Arbitration Clauses, opened at Geneva on 24th September, 1923.

Article 7

The present Convention, which will remain open to the signature of all the signatories of the Protocol of 1923 on Arbitration Clauses, shall be ratified.

It may be ratified only on behalf of those Members of the United Nations and non-Member States on whose behalf the Protocol of 1923 shall have been ratified.

Ratifications shall be deposited as soon as possible with the Secretary-General of the United Nations, who will notify such deposit to all the signatories.

Article 8

The present Convention shall come into force three months after it shall have been ratified on behalf of two High Contracting Parties. Thereafter, it shall take effect, in the case of each High Contracting Party, three months after the deposit of the ratification on its behalf with the Secretary-General of the League of Nations.

Article 9

The present Convention may be denounced on behalf of any Member of the United Nations or non-Member State. Denunciation shall be notified in writing to the Secretary-General of the United Nations, who will immediately send a copy thereof certified to be in conformity with the notification, to all the other Contracting Parties, at the same time informing them of the date on which he received it.

The denunciation shall come into force only in respect of the High Contracting Party which shall have notified it and one year after such notification shall have reached the Secretary-General of the United Nations.

The denunciation of the Protocol on Arbitration Clauses shall entail, ipso facto, the denunciation of the present Convention.

Article 10

The present Convention does not apply to the colonies, protectorates or territories under suzerainty or mandate of any High Contracting Party unless

they are specially mentioned.

The application of this Convention to one or more of such colonies, protectorates or territories to which the Protocol on Arbitration Clauses, opened at Geneva on 24th September, 1923, applies, can be effected at any time by means of a declaration addressed to the Secretary-General of the United Nations by one of the High Contracting Parties.

Such declaration shall take effect three months after the deposit thereof.

The High Contracting Parties can at any time denounce the Convention for all or any of the colonies, protectorates or territories referred to above. Article 9 hereof applies to such denunciation.

Article 11

A certified copy of the present Convention shall be transmitted by the Secretary-General of the United Nations to every Member of the United Nations and to every non-Member State which signs the same.

REPUBLIC OF ZAMBIA

THE INQUIRIES ACT

CHAPTER 41 OF THE LAWS OF ZAMBIA

CHAPTER 41 THE INQUIRIES ACTCHAPTER 41

THE INQUIRIES ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Power to issue commissions
3. Amendment or revocation of commission
4. Power to appoint fresh commissioners
5. Duty of commissioners
6. Commissioner to take oath or make affirmation
7. Immunity from suit of commissioner
8. Exercise of powers
9. Appointment and functions of secretary
10. Employment of experts and assistants
11. Interpreter

12. Appearance of legal practitioners and other persons
13. Regulation of proceedings
14. Powers of commissioners
15. Evidence may be taken by commission
16. Power to cause investigation to be made before issuing a commission
17. Offences
18. Payment of fees, remuneration or expenses

FIRST SCHEDULE-Form of oath or affirmation

SECOND SCHEDULE-Summons to witness

CHAPTER 41

INQUIRIES

An Act to provide for the issue of commissions and for the appointment of commissioners to inquire into and report on matters referred to them; to prescribe their functions; and to provide for matters incidental to or connected with the foregoing

[21st July, 1967]45 of 1967
13 of 1994

1. This Act may be cited as the Inquiries Act.Short title
2. (1) The President may issue a commission appointing one or more commissioners to inquire into any matter in which an inquiry would, in the opinion of the President, be for the public welfare.Power to issue commissions

(2) Every commission shall specify the subject, nature and extent of the inquiry concerned, and may contain directions generally for the carrying out of the inquiry and in particular may contain directions as to the following matters:
 - (a) the manner in which the commission is to be executed;
 - (b) the appointment of a chairman;
 - (c) the constitution of a quorum;
 - (d) the place and time where and within which the inquiry shall be made and the report thereof rendered;
 - (e) whether or not the proceedings shall, in whole or in part, be held in public.
- (3) In the absence of a direction to the contrary in the commission concerned, an inquiry shall be held in public, but the commissioners shall nevertheless be entitled to exclude the representatives of the press or any or all other persons

if they consider it necessary so to do for the preservation of order, for the due conduct of the inquiry or for any other reason.

(4) Every commission shall be published in the Gazette by statutory instrument.

3. A commission may be altered by a subsequent commission, or may be revoked by statutory instrument. Amendment or revocation of commission

4. If a commissioner is or becomes unwilling to act or dies, the President may, by statutory instrument, appoint a commissioner in his place. Power to appoint fresh commissioners

5. It shall be the duty of commissioners, or where a single commissioner is appointed, of that commissioner, to make a full, faithful and impartial inquiry in accordance with the terms of the commission concerned and to report the result of the inquiry to the President. Duty of commissioners

6. Every commissioner shall, before entering upon the duties of his office, take and subscribe before a Judge, an oath or an affirmation, for the due execution of his office, in the form set out in Part I of the First Schedule. Commissioner to take oath or make affirmation

7. No commissioner shall be liable to any action or suit for anything done by him as such commissioner. Immunity from suit of commissioner

8. The functions imposed or conferred on the commissioners by or under this Act, other than those referred to in section five, may be discharged by all the commissioners acting jointly or by any one of them acting singly, or, where a single commissioner is appointed, by that commissioner, or, by any person acting under their or his direction; and where the commissioners are required to be satisfied in respect of any matter before discharging any function, it shall be sufficient if the person discharging that function is so satisfied. Exercise of powers

9. (1) The President may appoint a secretary for the purposes of any inquiry. Appointment and functions of secretary

(2) A secretary shall discharge such functions as the commissioners concerned may direct.

10. (1) Commissioners, if thereunto authorised by the commission concerned, may engage the services of such accountants, engineers, technical advisers or other experts as they deem necessary to aid and assist them in the inquiry. Employment of experts and assistants

(2) Commissioners may, with the prior approval of the Minister responsible for finance, fix the remuneration of any person to be engaged in pursuance of the provisions of subsection (1).

11. (1) Commissioners may appoint an interpreter who shall, before entering upon the duties of his office, take and subscribe before the commissioners, an oath or make an affirmation in the form set out in Part II of the First Schedule. Interpreter

(2) An interpreter shall receive such remuneration as the commissioners may direct.

12. (1) Any person whose conduct is the subject of inquiry under this Act or who is in any way implicated or concerned in the matter under inquiry, shall be entitled to be represented at the inquiry and any other person who may consider it desirable that he should be so represented may, by leave of the commissioners, be so represented. Appearance of legal practitioners and other persons

(2) The Government shall be entitled to be represented at any inquiry by the Attorney-General or such person as he may nominate in that behalf.

13. (1) Commissioners, in the discharge of any of their functions, shall not be bound by the rules of evidence or by the rules of procedure of any court or tribunal, but may conduct their proceedings in such manner as they think proper and admit any evidence, written or oral, whether or not such evidence would be admissible in civil or criminal proceedings. Regulation of proceedings

(2) If commissioners are equally divided on any question that arises during their proceedings, the chairman of the commission shall have a second or casting vote.

14. (1) Commissioners may— Powers of commissioners

(a) enter upon and inspect any land, building, place or vessel, and inspect any goods and other things, the entry upon or inspection of which appears to them to be requisite for the purposes of the inquiry;

(b) require, by summons, in the form prescribed in the Second Schedule, the attendance of any person whom they wish to call before them and call for the production of books, plans and documents;

(c) examine witnesses on oath or affirmation, administered by them.

(2) Reasonable travelling expenses shall be paid to any person summoned in pursuance of the provisions of subsection (1).

(3) No person giving evidence shall be bound to incriminate himself and every witness shall, in respect of evidence given by him before the commissioners, be entitled to the same privileges to which he would be entitled if giving evidence before the High Court.

15. (1) If, by reason of the distance at which any person whose evidence is desired, resides from the place where his evidence is required, or if, for any other cause the commissioners deem it advisable, they may issue a commission to any public officer or person therein named, empowering him to take such evidence and report the same to the commissioner. Evidence may be taken by commission

(2) A public officer or person to whom a commission is issued under subsection (1) shall have the powers of commissioners under subsection (1) of section fourteen, and the provisions of subsections (2) and (3) of section fourteen shall apply, mutatis mutandis, where such powers are exercised.

16. (1) For the purposes of obtaining information to decide whether or not to issue a commission under section two, the President may direct the Attorney-General to cause an investigation to be made into such matters as the President may specify and to convey to him the result of such investigation. Power to cause investigation to be made before issuing a commission

(2) The Attorney-General may, for the purposes of carrying out any investigation directed by the President under subsection (1), in writing under his hand require any public officer (hereinafter in this Act referred to as an "authorised officer") to carry out such investigations as he may direct.

(3) For the purposes of carrying out any investigation directed by the Attorney-General, an authorised officer shall have all the powers of a police officer conducting a criminal investigation and may in particular-

(a) require in writing, from any person the production at a specified time and place of any book, plan or document in the possession or custody or under the control of the person concerned or his employee;

(b) examine and make extracts from and copies of any books, plans or documents and require from any person an explanation of any entry therein or marking thereon:

Provided that no person shall be bound to incriminate himself and every person shall, in respect of any explanation required of him, be entitled to the same privileges to which he would be entitled if giving evidence before the High Court.

(4) Where the Attorney-General is satisfied that the inspection of any banker's book is necessary or desirable for the purpose of any investigation directed by the President under subsection (1), he may, by order, authorise any authorised officer named therein to investigate the account of any specified person in any banker's book, and such order shall be sufficient authority for the production of any such banker's book as may be required for scrutiny by the authorised officer named in the order, and such authorised officer may take copies of any relevant entry or matter in such banker's book.

(5) The provisions of sections three, four and five of the Evidence (Banker's Books) Act shall apply, mutatis mutandis, in relation to the production and proof in any proceedings under this Act of a copy of any entry in a banker's book obtained under subsection (4).Cap. 44

(6) Any person who fails to produce a banker's book to an authorised officer acting in pursuance of an order made by the Attorney-General under this section or to permit such authorised officer to scrutinise the same or to take copies of the relevant entries therein shall be guilty of an offence and liable to a fine not exceeding six thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

(7) For the purposes of this section, "banker's book" shall have the meaning assigned thereto in section two of the Evidence (Banker's Books) Act.

(As amended by Act No. 13 of 1994)Cap. 44

17. If any person-

(a) who has been summoned to attend as a witness or produce any book, plan or document-Offences

(i) fails, without sufficient cause, to attend at the time and place mentioned in the summons served on him;

(ii) attends, but leaves the commission without the permission of the commissioners, or a public officer or person empowered under section fifteen, as the case may be;

(iii) refuses to be sworn or, having been sworn, refuses, without sufficient cause, to answer or to answer fully and satisfactorily to the best of his knowledge and belief all questions put to him by or with the concurrence of the commissioners, or by a public officer or person empowered under section fifteen; or

(iv) refuses or omits, without sufficient cause, to produce any books, plans or documents in his possession or under his control and mentioned or referred to in the summons served on him;

(b) refuses or omits, without sufficient cause, to-

(i) produce any books, plans or documents to an authorised officer acting under section sixteen;

(ii) permit an authorised officer acting under section sixteen to examine, make extracts from or copies of any books, plans or documents;

(iii) explain any entry in or marking of any book, plan or document to an authorised officer acting under section sixteen;

he shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand and five hundred penalty units or to imprisonment for a period not exceeding six months, or to both.

(As amended by Act No. 13 of 1994)

18. Any fees, remuneration or expenses payable under this Act shall be paid out of moneys appropriated by Parliament for the purpose. Payment of fees, remuneration or expenses

FIRST SCHEDULE

(Sections 6 and 11)

PART I

FORM OF OATH OR AFFIRMATION TO BE TAKEN BY A COMMISSIONER

I, having been appointed
under a commission issued by the President and dated the day of , 19
 , to be a commissioner to inquire
into the matters specified in the said commission, do swear (or do solemnly and
sincerely affirm) that I will faithfully, fully, impartially and to the best of
my ability, discharge the trust and perform the duties devolving upon me by
virtue of the said commission.

(In the case of an oath here add) So help me God.

Commissioner

Taken before me this day of , 19

Judge of the High Court

PART II

FORM OF OATH OR AFFIRMATION TO BE TAKEN BY INTERPRETER

I swear (or do solemnly and sincerely affirm) that I will well and truly interpret and explanation make of all such matters and things as shall be required of me, to the best of my skill and understanding.

(In the case of an oath here add) So help me God.

Interpreter

Taken before me this _____ day of _____, 19 ____ .

Commissioner

SECOND SCHEDULE

(Section 14)

SUMMONS TO WITNESS UNDER SECTION 14 OF THE INQUIRIES ACT

To (name of person summoned and his calling and residence if known).

You are hereby summoned to appear before (here name the commissioners) appointed by the President to inquire (state briefly the subject of inquiry) at (place) upon the _____ day of _____

19____, at _____ o'clock, and to give evidence respecting such inquiry (if the person summoned has to produce any documents, add) and you are required to bring with you (specify the books and documents required).

Given under my hand this _____ day of _____, 19 ____

Commissioner

REPUBLIC OF ZAMBIA

THE INVESTMENT DISPUTES CONVENTION ACT

CHAPTER 42 OF THE LAWS OF ZAMBIA

CHAPTER 42 THE INVESTMENT DISPUTES CONVENTION ACTCHAPTER 42

THE INVESTMENT DISPUTES CONVENTION ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Binding effect of award
4. Registration of awards
5. Effect of registration
6. Rules of court
7. Status, immunities and privileges
8. Act to bind Republic

SCHEDULE-Convention on the Settlement of Investment Disputes between States and Nationals of other States

CHAPTER 42

INVESTMENT DISPUTES CONVENTION¹⁸ of 1970

An Act to give effect to the Convention on the Settlement of Investment Disputes between States and Nationals of other States.

[17th April, 1970]

1. This Act may be cited as the Investment Disputes Convention Act. Short title

2. In this Act, unless the context otherwise requires- Interpretation

"award" means an award rendered pursuant to the Convention and includes any decision interpreting, revising or annulling an award, being a decision pursuant to the Convention;

"Convention" means the Convention on the Settlement of Investment Disputes between States and Nationals of other States, the text of which is set out in the Schedule;

"prescribed" means prescribed by rules of court.

3. Every award shall be binding on the parties thereto. Binding effect of award

4. (1) Upon application being made in that behalf, a person seeking recognition or enforcement of an award shall be entitled to have the award registered in the High Court, subject to proof of the prescribed matters and to the other provisions of this Act. Registration of awards

(2) Upon application being made under subsection (1), the applicant shall produce to the High Court-

(a) a copy of the award certified pursuant to the Convention;

(b) evidence that no application is pending under Article 52 of the Convention and that enforcement of the award has not been stayed, whether provisionally or otherwise, pursuant to the Convention.

(3) In addition to the pecuniary obligations imposed by the award, the award shall be registered for the reasonable costs of and incidental to registration.

(4) If at the date of the application for registration the pecuniary obligations imposed by the award have been partly satisfied, the award shall be registered only in respect of the balance, and accordingly if those obligations have then been wholly satisfied, the award shall not be registered.

(5) Where any document required to be produced to the High Court is in a foreign language, it shall be the duty of the applicant to furnish a translation certified as correct in such language and manner as may be prescribed.

5. Subject to the provisions of this Act, an award registered under section four shall, as respects the pecuniary obligations which it imposes, have the same force and effect from its date of registration as if it had been a final judgment of the High Court entered on that date and may be enforced accordingly. Effect of registration

6. Rules of court may be made, by statutory instrument, to carry this Act into effect and such rules may in particular-

(a) prescribe the procedure for applying for registration of an award under this Act and require an applicant to give prior notice of his intention to other parties;

(b) prescribe the matters to be proved on the application and the manner of proof of those and any other matters;

(c) provide for the service of notice of registration of the award by the applicant on other parties;

(d) require the High Court on proof of prescribed matters to stay execution of any award registered under this Act in cases where the enforcement of the award has been stayed, whether provisionally or otherwise, pursuant to the Convention, and provide for the provisional stay of execution of the award where an application is made pursuant to the Convention which, if granted, might result in a stay of enforcement of the award. Rules of court

7. (1) Subject to subsection (2), Articles 18 to 24 (both inclusive) of the Convention (which govern the status, immunities and privileges of the International Centre for Settlement of Investment Disputes, of members of its Council and Secretariat and of persons concerned with conciliation or arbitration under the Convention) shall have the force of law so far as they affect Zambia. Status, immunities and privileges

(2) Nothing in Article 24 (1) of the Convention shall be construed as-

(a) entitling the said Centre to import goods free of customs duty without any restriction on their subsequent sale in Zambia; or

(b) conferring on the said Centre any exemption from duties or taxes which form part of the price of the goods sold.

(3) For the purposes of Articles 20 and 21 of the Convention, a statement to the effect that the said Centre has waived an immunity in the circumstances specified in the statement, being a statement certified by the Secretary-General of the said Centre (or by the person acting as Secretary-General), shall be conclusive evidence.

8. This Act shall bind the Republic (but not so as to make an award enforceable against the Republic in a manner in which a judgment would not be enforceable against the Republic). Act to bind Republic

SCHEDULE

(Section 2)

CONVENTION ON THE SETTLEMENT OF INVESTMENT DISPUTES BETWEEN STATES AND NATIONALS OF OTHER STATES

PREAMBLE

The Contracting States

Considering the need for international co-operation for economic development and the role of private international investment therein;

Bearing in mind the possibility that from time to time disputes may arise in connection with such investment between Contracting States and nationals of other Contracting States;

Recognizing that while such disputes would usually be subject to national legal processes, international methods of settlement may be appropriate in certain cases;

Attaching particular importance to the availability of facilities for international conciliation or arbitration to which Contracting States and nationals of other Contracting States may submit such disputes if they so desire;

Desiring to establish such facilities under the auspices of the International Bank for Reconstruction and Development;

Recognizing that mutual consent by the parties to submit such disputes to conciliation or to arbitration through such facilities constitutes a binding agreement which requires in particular that due consideration be given to any recommendation of conciliators, and that any arbitral award be complied with; and

Declaring that no Contracting State shall by the mere fact of its ratification, acceptance or approval of this Convention and without its consent be deemed to be under any obligation to submit any particular dispute to conciliation or arbitration,

HAVE AGREED as follows:

CHAPTER I

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Section 1-Establishment and Organization

Article 1:

(1) There is hereby established the International Centre for Settlement of Investment Disputes (hereinafter called the Centre).

(2) The purpose of the Centre shall be to provide facilities for conciliation and arbitration of investment disputes between Contracting States and nationals of other Contracting States in accordance with the provisions of this Convention.

Article 2:

The seat of the Centre shall be at the principal office of the International Bank for Reconstruction and Development (hereinafter called the Bank). The seat may be moved to another place by decision of the Administrative Council adopted by a majority of two-thirds of its members.

Article 3:

The Centre shall have an Administrative Council and a Secretariat and shall maintain a Panel of Conciliators and a Panel of Arbitrators.

Section 2-The Administrative Council

Article 4:

(1) The Administrative Council shall be composed of one representative of each Contracting State. An alternate may act as representative in case of his principal's absence from a meeting or inability to act.

(2) In the absence of a contrary designation, each governor and alternate governor of the Bank appointed by a Contracting State shall be ex officio its representative and its alternate respectively.

Article 5:

The President of the Bank shall be ex officio Chairman of the Administrative Council (hereinafter called the Chairman) but shall have no vote. During his absence or inability to act and during any vacancy in the office of President of the Bank, the person for the time being acting as President shall act as Chairman of the Administrative Council.

Article 6:

(1) Without prejudice to the powers and functions vested in it by other provisions of this Convention, the Administrative Council shall-

- (a) adopt the administrative and financial regulations of the Centre;
- (b) adopt the rules of procedure for the institution of conciliation and arbitration proceedings;
- (c) adopt the rules of procedure for conciliation and arbitration proceedings (hereinafter called the Conciliation Rules and the Arbitration Rules);

- (d) approve arrangements with the Bank for the use of the Bank's administrative facilities and services;
- (e) determine the conditions of service of the Secretary-General and of any Deputy Secretary-General;
- (f) adopt the annual budget of revenues and expenditures of the Centre;
- (g) approve the annual report on the operation of the Centre.

The decisions referred to in sub-paragraphs (a), (b), (c) and (f) above shall be adopted by a majority of two-thirds of the members of the Administrative Council.

(2) The Administrative Council may appoint such committees as it considers necessary.

(3) The Administrative Council shall also exercise such other powers and perform such other functions as it shall determine to be necessary for the implementation of the provisions of this Convention.

Article 7:

(1) The Administrative Council shall hold an annual meeting and such other meetings as may be determined by the Council, or convened by the Chairman, or convened by the Secretary-General at the request of not less than five members of the Council.

(2) Each member of the Administrative Council shall have one vote and, except as otherwise herein provided, all matters before the Council shall be decided by a majority of the votes cast.

(3) A quorum for any meeting of the Administrative Council shall be a majority of its members.

(4) The Administrative Council may establish, by a majority of two-thirds of its members, a procedure whereby the Chairman may seek a vote of the Council without convening a meeting of the Council. The vote shall be considered valid only if the majority of the members of the Council cast their votes within the time limit fixed by the said procedure.

Article 8:

Members of the Administrative Council and the Chairman shall serve without remuneration from the Centre.

Section 3-The Secretariat

Article 9:

The Secretariat shall consist of a Secretary-General, one or more Deputy Secretaries-General and staff.

Article 10:

(1) The Secretary-General and any Deputy Secretary-General shall be elected

by the Administrative Council by a majority of two-thirds of its members upon the nomination of the Chairman for a term of service not exceeding six years and shall be eligible for re-election. After consulting the members of the Administrative Council, the Chairman shall propose one or more candidates for each such office.

(2) The offices of Secretary-General and Deputy Secretary-General shall be incompatible with the exercise of any political function. Neither the Secretary-General nor any Deputy Secretary-General may hold any other employment or engage in any other occupation except with the approval of the Administrative Council.

(3) During the Secretary-General's absence or inability to act, and during any vacancy in the office of Secretary-General, the Deputy Secretary-General shall act as Secretary-General. If there shall be more than one Deputy Secretary-General, the Administrative Council shall determine in advance the order in which they shall act as Secretary-General.

Article 11:

The Secretary-General shall be the legal representative and the principal officer of the Centre and shall be responsible for its administration, including the appointment of staff, in accordance with the provisions of this Convention and the rules adopted by the Administrative Council. He shall perform the function of registrar and shall have the power to authenticate arbitral awards rendered pursuant to this Convention, and to certify copies thereof.

Section 4-The Panels

Article 12:

The Panel of Conciliators and the Panel of Arbitrators shall each consist of qualified persons, designated as hereinafter provided, who are willing to serve thereon.

Article 13:

(1) Each Contracting State may designate to each Panel four persons who may but need not be its nationals.

(2) The Chairman may designate ten persons to each Panel. The persons so designated to a Panel shall each have a different nationality.

Article 14:

(1) Persons designated to serve on the Panels shall be persons of high moral character and recognized competence in the fields of law, commerce, industry or finance, who may be relied upon to exercise independent judgment. Competence in the field of law shall be of particular importance in the case of persons on the Panel of Arbitrators.

(2) The Chairman, in designating persons to serve on the Panels, shall in addition pay due regard to the importance of assuring representation on the Panels of the principal legal systems of the world and of the main forms of economic activity.

Article 15:

(1) Panel members shall serve for renewable periods of six years.

(2) In case of death or resignation of a member of a Panel, the authority which designated the member shall have the right to designate another person to serve for the remainder of that member's term.

(3) Panel members shall continue in office until their successors have been designated.

Article 16:

(1) A person may serve on both Panels.

(2) If a person shall have been designated to serve on the same Panel by more than one Contracting State, or by one or more Contracting States and the Chairman, he shall be deemed to have been designated by the authority which first designated him or, if one such authority is the State of which he is a national, by that State.

(3) All designations shall be notified to the Secretary-General and shall take effect from the date on which the notification is received.

Section 5-Financing the Centre

Article 17:

If the expenditure of the Centre cannot be met out of charges for the use of its facilities, or out of other receipts, the excess shall be borne by Contracting States which are members of the Bank in proportion to their respective subscriptions to the capital stock of the Bank, and by Contracting States which are not members of the Bank in accordance with rules adopted by the Administrative Council.

Section 6-Status, Immunities and Privileges

Article 18:

The Centre shall have full international legal personality. The legal capacity of the Centre shall include the capacity-

- (a) to contract;
- (b) to acquire and dispose of movable and immovable property;
- (c) to institute legal proceedings.

Article 19:

To enable the Centre to fulfil its functions, it shall enjoy in the territories of each Contracting State the immunities and privileges set forth in this section.

Article 20:

The Centre, its property and assets shall enjoy immunity from all legal process, except when the Centre waives this immunity.

Article 21:

The Chairman, the members of the Administrative Council, persons acting as conciliators or arbitrators or members of a Committee appointed pursuant to paragraph (3) of Article 52, and the officers and employees of the Secretariat-

(a) shall enjoy immunity from legal process with respect to acts performed by them in the exercise of their functions, except when the Centre waives this immunity;

(b) not being local nationals, shall enjoy the same immunities from immigration restrictions, alien registration requirements and national service obligations, the same facilities as regards exchange restrictions and the same treatment in respect of travelling facilities as are accorded by Contracting States to the representatives, officials and employees of comparable rank of other Contracting States.

Article 22:

The provisions of Article 21 shall apply to persons appearing in proceedings under this Convention as parties, agents, counsel, advocates, witnesses or experts; provided, however, that sub-paragraph (b) thereof shall apply only in connection with their travel to and from, and their stay at, the place where the proceedings are held.

Article 23:

(1) The archives of the Centre shall be inviolable, wherever they may be.

(2) With regard to its official communications, the Centre shall be accorded by each Contracting State treatment not less favourable than that accorded to other international organizations.

Article 24:

(1) The Centre, its assets, property and income, and its operations and transactions authorized by this Convention shall be exempt from all taxation and customs duties. The Centre shall also be exempt from liability for the collection or payment of any taxes or customs duties.

(2) Except in the case of local nationals, no tax shall be levied on or in respect of expense allowances paid by the Centre to the Chairman or members of the Administrative Council, or on or in respect of salaries, expense allowances or other emoluments paid by the Centre to officials or employees of the Secretariat.

(3) No tax shall be levied on or in respect of fees or expense allowances received by persons acting as conciliators, or arbitrators, or members of a Committee appointed pursuant to paragraph (3) of Article 52, in proceedings under this Convention, if the sole jurisdictional basis for such tax is the location of the Centre or the place where such proceedings are conducted or the place where such fees or allowances are paid.

CHAPTER II

JURISDICTION OF THE CENTRE

Article 25:

(1) The jurisdiction of the Centre shall extend to any legal dispute arising directly out of an investment, between a Contracting State (or any constituent subdivision or agency of a Contracting State designated to the Centre by that State) and a national of another Contracting State, which the parties to the dispute consent in writing to submit to the Centre. When the parties have given their consent, no party may withdraw its consent unilaterally.

(2) "National of another Contracting State" means-

(a) any natural person who had the nationality of a Contracting State other than the State party to the dispute on the date on which the parties consented to submit such dispute to conciliation or arbitration as well as on the date on which the request was registered pursuant to paragraph (3) of Article 28 or paragraph (3) of Article 36, but does not include any person who on either date also had the nationality of the Contracting State party to the dispute; and

(b) any juridical person which had the nationality of a Contracting State other than the State party to the dispute on the date on which the parties consented to submit such dispute to conciliation or arbitration and any juridical person which had the nationality of the Contracting State party to the dispute on that date and which, because of foreign control, the parties have agreed should be treated as a national of another Contracting State for the purposes of this Convention.

(3) Consent by a constituent subdivision or agency of a Contracting State shall require the approval of that State unless that State notifies the Centre that no such approval is required.

(4) Any Contracting State may, at the time of ratification, acceptance or approval of this Convention or at any time thereafter, notify the Centre of the class or classes of disputes which it would or would not consider submitting to the jurisdiction of the Centre. The Secretary-General shall forthwith transmit such notification to all Contracting States. Such notification shall not constitute the consent required by paragraph (1).

Article 26:

Consent to the parties to arbitration under this Convention shall, unless otherwise stated, be deemed consent to such arbitration to the exclusion of any other remedy. A Contracting State may require the exhaustion of local administrative or judicial remedies as a condition of its consent to arbitration under this Convention.

Article 27:

(1) No Contracting State shall give diplomatic protection, or bring an international claim, in respect of a dispute which one of its nationals and another Contracting State shall have consented to submit or shall have submitted to arbitration under this Convention, unless such other Contracting State shall have failed to abide by and comply with the award rendered in such dispute.

(2) Diplomatic protection, for the purposes of paragraph (1), shall not include informal diplomatic exchanges for the sole purpose of facilitating a

settlement of the dispute.

CHAPTER III

CONCILIATION

Section 1-Request for Conciliation

Article 28:

(1) Any Contracting State or any national of a Contracting State wishing to institute conciliation proceedings shall address a request to that effect in writing to the Secretary-General who shall send a copy of the request to the other party.

(2) The request shall contain information concerning the issues in dispute, the identity of the parties and their consent to conciliation in accordance with the rules of procedure for the institution of conciliation and arbitration proceedings.

(3) The Secretary-General shall register the request unless he finds, on the basis of the information contained in the request, that the dispute is manifestly outside the jurisdiction of the Centre. He shall forthwith notify the parties of registration or refusal to register.

Section 2-Constitution of the Conciliation Commission

Article 29:

(1) The Conciliation Commission (hereinafter called the Commission) shall be constituted as soon as possible after registration of a request pursuant to Article 28.

(2) (a) The Commission shall consist of a sole conciliator or any uneven number of conciliators appointed as the parties shall agree.

(b) Where the parties do not agree upon the number of conciliators and the method of their appointment, the Commission shall consist of three conciliators, one conciliator appointed by each party and the third, who shall be the president of the Commission, appointed by agreement of the parties.

Article 30:

If the Commission shall not have been constituted within ninety days after notice of registration of the request has been dispatched by the Secretary-General in accordance with paragraph (3) of Article 28, or such other period as the parties may agree, the Chairman shall, at the request of either party and after consulting both parties as far as possible, appoint the conciliator or conciliators not yet appointed.

Article 31:

(1) Conciliators may be appointed from outside the Panel of Conciliators, except in the case of appointments by the Chairman pursuant to Article 30.

(2) Conciliators appointed from outside the Panel of Conciliators shall possess the qualities stated in paragraph (1) of Article 14.

Section 3-Conciliation Proceedings

Article 32:

(1) The Commission shall be the judge of its own competence.

(2) Any objection by a party to the dispute that that dispute is not within the jurisdiction of the Centre, or for other reasons is not within the competence of the Commission, shall be considered by the Commission which shall determine whether to deal with it as a preliminary question or to join it to the merits of the dispute.

Article 33:

Any conciliation proceedings shall be conducted in accordance with the provisions of this section and, except as the parties otherwise agree, in accordance with the Conciliation Rules in effect on the date on which the parties consented to conciliation. If any question of procedure arises which is not covered by this section or the Conciliation Rules or any rules agreed by the parties, the Commission shall decide the question.

Article 34:

(1) It shall be the duty of the Commission to clarify the issues in dispute between the parties and to endeavour to bring about agreement between them upon mutually acceptable terms. To that end, the Commission may at any stage of the proceedings and from time to time recommend terms of settlement to the parties. The parties shall co-operate in good faith with the Commission in order to enable the Commission to carry out its functions, and shall give their most serious consideration to its recommendations.

(2) If the parties reach agreement, the Commission shall draw up a report noting the issues in dispute and recording that the parties have reached agreement. If, at any stage of the proceedings, it appears to the Commission that there is no likelihood of agreement between the parties, it shall close the proceedings and shall draw up a report noting the submission of the dispute and recording the failure of the parties to reach agreement. If one party fails to appear or participate in the proceedings, the Commission shall close the proceedings and shall draw up a report noting that party's failure to appear or participate.

Article 35:

Except as the parties to the dispute shall otherwise agree, neither party to a conciliation proceeding shall be entitled in any other proceeding, whether before arbitrators or in a court of law or otherwise, to invoke or rely on any views expressed or statements or admissions or offers of settlement made by the other party in the conciliation proceedings, or the report or any recommendations made by the Commission.

CHAPTER IV

ARBITRATION

Section 1-Request for Arbitration

Article 36:

(1) Any Contracting State or any national of a Contracting State wishing to institute arbitration proceedings shall address a request to that effect in writing to the Secretary-General who shall send a copy of the request to the other party.

(2) The request shall contain information concerning the issues in dispute, the identity of the parties and their consent to arbitration in accordance with the rules of procedure for the institution of conciliation and arbitration proceedings.

(3) The Secretary-General shall register the request unless he finds, on the basis of the information contained in the request, that the dispute is manifestly outside the jurisdiction of the Centre. He shall forthwith notify the parties of registration or refusal to register.

Section 2-Constitution of the Tribunal

Article 37:

(1) The Arbitral Tribunal (hereinafter called the Tribunal) shall be constituted as soon as possible after registration of a request pursuant to Article 36.

(2) (a) The Tribunal shall consist of a sole arbitrator or any uneven number of arbitrators appointed as the parties shall agree.

(b) Where the parties do not agree upon the number of arbitrators and the method of their appointment, the Tribunal shall consist of three arbitrators, one arbitrator appointed by each party and the third, who shall be the president of the Tribunal, appointed by agreement of the parties.

Article 38:

If the Tribunal shall not have been constituted within ninety days after notice of registration of the request has been dispatched by the Secretary-General in accordance with paragraph (3) of Article 36, or such other period as the parties may agree, the Chairman shall, at the request of either party and after consulting both parties as far as possible, appoint the arbitrator or arbitrators not yet appointed. Arbitrators appointed by the Chairman pursuant to this Article shall not be nationals of the Contracting State party to the dispute or of the Contracting State whose national is a party to the dispute.

Article 39:

The majority of the arbitrators shall be nationals of States other than the Contracting State party to the dispute and the Contracting State whose national is a party to the dispute; provided, however, that the foregoing provisions of this Article shall not apply if the sole arbitrator or each individual member of the Tribunal has been appointed by agreement of the parties.

Article 40:

(1) Arbitrators may be appointed from outside the Panel of Arbitrators, except in the case of appointments by the Chairman pursuant to Article 38.

(2) Arbitrators appointed from outside the Panel of Arbitrators shall possess the qualities stated in paragraph (1) of Article 14.

Section 3-Powers and Functions of the Tribunal

Article 41:

(1) The Tribunal shall be the judge of its own competence.

(2) Any objection by a party to the dispute that that dispute is not within the jurisdiction of the Centre, or for other reasons is not within the competence of the Tribunal, shall be considered by the Tribunal which shall determine whether to deal with it as a preliminary question or to join it to the merits of the dispute.

Article 42:

(1) The Tribunal shall decide a dispute in accordance with such rules of law as may be agreed by the parties. In the absence of such agreement, the Tribunal shall apply the law of the Contracting State party to the dispute (including its rules on the conflict of laws) and such rules of international law as may be applicable.

(2) The Tribunal may not bring in a finding of non liquet on the ground of silence or obscurity of the law.

(3) The provisions of paragraphs (1) and (2) shall not prejudice the power of the Tribunal to decide a dispute ex aequo et bono if the parties so agree.

Article 43:

Except as the parties otherwise agree, the Tribunal may, if it deems it necessary at any stage of the proceedings-

- (a) call upon the parties to produce documents or other evidence; and
- (b) visit the scene connected with the dispute and conduct such inquiries there as it may deem appropriate.

Article 44:

Any arbitration proceeding shall be conducted in accordance with the provisions of this section and, except as the parties otherwise agree, in accordance with the Arbitration Rules in effect on the date on which the parties consented to arbitration. If any question of procedure arises which is not covered by this section or the Arbitration Rules or any rules agreed by the parties, the Tribunal shall decide the question.

Article 45:

(1) Failure of a party to appear or to present his case shall not be deemed an admission of the other party's assertions.

(2) If a party fails to appear or to present his case at any stage of the proceedings the other party may request the Tribunal to deal with the questions submitted to it and to render an award. Before rendering an award, the Tribunal

shall notify, and grant a period of grace to, the party failing to appear or to present its case, unless it is satisfied that that party does not intend to do so.

Article 46:

Except as the parties otherwise agree, the Tribunal shall, if requested by a party, determine any incidental or additional claims or counter-claims arising directly out of the subject-matter of the dispute provided that they are within the scope of the consent of the parties and are otherwise within the jurisdiction of the Centre.

Article 47:

Except as the parties otherwise agree, the Tribunal may, if it considers that the circumstances so require, recommend any provisional measures which should be taken to preserve the respective rights of either party.

Section 4-The Award

Article 48:

(1) The Tribunal shall decide questions by a majority of the votes of all its members.

(2) The award of the Tribunal shall be in writing and shall be signed by the members of the Tribunal who voted for it.

(3) The award shall deal with every question submitted to the Tribunal, and shall state the reasons upon which it is based.

(4) Any member of the Tribunal may attach his individual opinion to the award, whether he dissents from the majority or not, or a statement of his dissent.

(5) The Centre shall not publish the award without the consent of the parties.

Article 49:

(1) The Secretary-General shall promptly dispatch certified copies of the award to the parties. The award shall be deemed to have been rendered on the date on which the certified copies were dispatched.

(2) The Tribunal upon the request of a party made within forty-five days after the date on which the award was rendered may after notice to the other party decide any question which it had omitted to decide in the award, and shall rectify any clerical, arithmetical or similar error in the award. Its decision shall become part of the award and shall be notified to the parties in the same manner as the award. The periods of time provided for under paragraph (2) of Article 51 and paragraph (2) of Article 52 shall run from the date on which the decision was rendered.

Section 5-Interpretation, Revision and Annulment of the Award

Article 50:

(1) If any dispute shall arise between the parties as to the meaning or scope of an award, either party may request interpretation of the award by an application in writing addressed to the Secretary-General.

(2) The request shall, if possible, be submitted to the Tribunal which rendered the award. If this shall not be possible, a new Tribunal shall be constituted in accordance with section 2 of this Chapter. The Tribunal may, if it considers that the circumstances so require, stay enforcement of the award pending its decision.

Article 51:

(1) Either party may request revision of the award by an application in writing addressed to the Secretary-General on the ground of discovery of some fact of such a nature as decisively to affect the award, provided that when the award was rendered that fact was unknown to the Tribunal and to the applicant and that the applicant's ignorance of that fact was not due to negligence.

(2) The application shall be made within ninety days after the discovery of such fact and in any event within three years after the date on which the award was rendered.

(3) The request shall, if possible, be submitted to the Tribunal which rendered the award. If this shall not be possible, a new Tribunal shall be constituted in accordance with section 2 of this Chapter.

(4) The Tribunal may, if it considers that the circumstances so require, stay enforcement of the award pending its decision. If the applicant requests a stay of enforcement of the award in his application, enforcement shall be stayed provisionally until the Tribunal rules on such request.

Article 52:

(1) Either party may request annulment of the award by an application in writing addressed to the Secretary-General on one or more of the following grounds:

- (a) that the Tribunal was not properly constituted;
- (b) that the Tribunal has manifestly exceeded its powers;
- (c) that there was corruption on the part of a member of the Tribunal;
- (d) that there has been a serious departure from a fundamental rule of procedure; or
- (e) that the award has failed to state the reasons on which it is based.

(2) The application shall be made within one hundred and twenty days after the date on which the award was rendered except that when annulment is requested on the ground of corruption such application shall be made within one hundred and twenty days after discovery of the corruption and in any event within three years after the date on which the award was rendered.

(3) On receipt of the request the Chairman shall forthwith appoint from the Panel of Arbitrators an ad hoc Committee of three persons. None of the members of the Committee shall have been a member of the Tribunal which rendered the

award, shall be of the same nationality of any such member, shall be a national of the State party to the dispute or of the State whose national is a party to the dispute, shall have been designated to the Panel of Arbitrators by either of those States, or shall have acted as a conciliator in the same dispute. The Committee shall have the authority to annul the award or any part thereof on any of the grounds set forth in paragraph (1).

(4) The provisions of Articles 41-45, 48, 49, 53 and 54, and of Chapters VI and VII shall apply mutatis mutandis to proceedings before the Committee.

(5) The Committee may, if it considers that the circumstances so require, stay enforcement of the award pending its decision. If the applicant requests a stay of enforcement of the award in his application, enforcement shall be stayed provisionally until the Committee rules on such request.

(6) If the award is annulled the dispute shall, at the request of either party, be submitted to a new Tribunal constituted in accordance with section 2 of this Chapter.

Section 6-Recognition and Enforcement of the Award

Article 53:

(1) The award shall be binding on the parties and shall not be subject to any appeal or to any other remedy except those provided for in this Convention. Each party shall abide by and comply with the terms of the award except to the extent that enforcement shall have been stayed pursuant to the relevant provisions of this Convention.

(2) For the purposes of this section, "award" shall include any decision interpreting, revising or annulling such award pursuant to Article 50, 51 or 52.

Article 54:

(1) Each Contracting State shall recognize an award rendered pursuant to this Convention as binding and enforce the pecuniary obligations imposed by that award within its territories as if it were a final judgment of a court in that State. A Contracting State with a federal constitution may enforce such an award in or through its federal courts and may provide that such courts shall treat the award as if it were a final judgment of the courts of a constituent State.

(2) A party seeking recognition or enforcement in the territories of a Contracting State shall furnish to a competent court or other authority which such State shall have designated for this purpose a copy of the award certified by the Secretary-General. Each Contracting State shall notify the Secretary-General of the designation of the competent court or other authority for this purpose and of any subsequent change in such designation.

(3) Execution of the award shall be governed by the laws concerning the execution of judgments in force in the State in whose territories such execution is sought.

Article 55:

Nothing in Article 54 shall be construed as derogating from the law in force in any Contracting State relating to immunity of that State or of any foreign State from execution.

CHAPTER V

REPLACEMENT AND DISQUALIFICATION OF CONCILIATORS AND ARBITRATORS

Article 56:

(1) After a Commission or a Tribunal has been constituted and proceedings have begun, its composition shall remain unchanged; provided, however, that if a conciliator or an arbitrator should die, become incapacitated, or resign, the resulting vacancy shall be filled in accordance with the provisions of section 2 of Chapter III or section 2 of Chapter IV.

(2) A member of a Commission or a Tribunal shall continue to serve in that capacity notwithstanding that he shall have ceased to be a member of the Panel.

(3) If a conciliator or arbitrator appointed by a party shall have resigned without the consent of the Commission or Tribunal of which he was a member, the Chairman shall appoint a person from the appropriate Panel to fill the resulting vacancy.

Article 57:

A party may propose to a Commission or a Tribunal the disqualification of any of its members on account of any fact indicating a manifest lack of the qualities required by paragraph (1) of Article 14. A party to arbitration proceedings may, in addition, propose the disqualification of an arbitrator on the ground that he was ineligible for appointment to the Tribunal under section 2 of Chapter IV.

Article 58:

The decision on any proposal to disqualify a conciliator or arbitrator shall be taken by the other members of the Commission or Tribunal, as the case may be, provided that where those members are equally divided, or in the case of a proposal to disqualify a sole conciliator or arbitrator, or a majority of the conciliators or arbitrators, the Chairman shall take that decision. If it is decided that the proposal is well-founded the conciliator or arbitrator to whom the decision relates shall be replaced in accordance with the provisions of section 2 of Chapter III or section 2 of Chapter IV.

CHAPTER VI

COST OF PROCEEDINGS

Article 59:

The charges payable by the parties for the use of the facilities of the Centre shall be determined by the Secretary-General in accordance with the regulations adopted by the Administrative Council.

Article 60:

(1) Each Commission and each Tribunal shall determine the fees and expenses of its members within limits established from time to time by the Administrative Council and after consultation with the Secretary-General.

(2) Nothing in paragraph (1) of this Article shall preclude the parties from agreeing in advance with the Commission or Tribunal concerned upon the fees and expenses of its members.

Article 61:

(1) In the case of conciliation proceedings the fees and expenses of members of the Commission as well as the charges for the use of the facilities of the Centre shall be borne equally by the parties. Each party shall bear any other expenses it incurs in connection with the proceedings.

(2) In the case of arbitration proceedings the Tribunal shall, except as the parties otherwise agree, assess the expenses incurred by the parties in connection with the proceedings, and shall decide how and by whom those expenses, the fees and expenses of the members of the Tribunal and the charges for the use of the facilities of the Centre shall be paid. Such decision shall form part of the award.

CHAPTER VII

PLACE OF PROCEEDINGS

Article 62:

Conciliation and arbitration proceedings shall be held at the seat of the Centre except as hereinafter provided.

Article 63:

Conciliation and arbitration proceedings may be held, if the parties so agree-

(a) at the seat of the Permanent Court of Arbitration or of any other appropriate institution, whether private or public, with which the Centre may make arrangements for that purpose; or

(b) at any other place approved by the Commission or Tribunal after consultation with the Secretary-General.

CHAPTER VIII

DISPUTES BETWEEN CONTRACTING STATES

Article 64:

Any dispute arising between Contracting States concerning the interpretation or application of this Convention which is not settled by negotiation shall be referred to the International Court of Justice by the application of any party to such dispute, unless the States concerned agree to another method of settlement.

CHAPTER IX

AMENDMENT

Article 65:

Any Contracting State may propose amendment of this Convention. The text of a proposed amendment shall be communicated to the Secretary-General not less than ninety days prior to the meeting of the Administrative Council at which such amendment is to be considered and shall forthwith be transmitted by him to all the members of the Administrative Council.

Article 66:

(1) If the Administrative Council shall so decide by a majority of two-thirds of its members, the proposed amendment shall be circulated to all Contracting States for ratification, acceptance or approval. Each amendment shall enter into force thirty days after dispatch by the depositary of this Convention of a notification to Contracting States that all Contracting States have ratified, accepted or approved the amendment.

(2) No amendment shall affect the rights and obligations under this Convention of any Contracting State or of any of its constituent subdivisions or agencies, or of any national of such State arising out of consent to the jurisdiction of the Centre given before the date of entry into force of the amendment.

CHAPTER X

Final Provisions

Article 67:

This Convention shall be open for signature on behalf of States members of the Bank. It shall also be open for signature on behalf of any other State which is a party to the Statute of the International Court of Justice and which the Administrative Council, by a vote of two-thirds of its members, shall have invited to sign the Convention.

Article 68:

(1) This Convention shall be subject to ratification, acceptance or approval by the signatory States in accordance with their respective constitutional procedures.

(2) This Convention shall enter into force thirty days after the date of deposit of the twentieth instrument of ratification, acceptance or approval. It shall enter into force for each State which subsequently deposits its instrument of ratification, acceptance or approval thirty days after the date of such deposit.

Article 69:

Each Contracting State shall take such legislative or other measures as may be necessary for making the provisions of this Convention effective in its territories.

Article 70:

This Convention shall apply to all territories for whose international relations a Contracting State is responsible, except those which are excluded by such State by written notice to the depositary of this Convention either at the time of ratification, acceptance or approval or subsequently.

Article 71:

Any Contracting State may denounce this Convention by written notice to the depositary of this Convention. The denunciation shall take effect six months after receipt of such notice.

Article 72:

Notice by a Contracting State pursuant to Article 70 or 71 shall not affect the rights or obligations under this Convention of that State or of any of its constituent sub-divisions or agencies or of any national of that State arising out of consent to the jurisdiction of the Centre given by one of them before such notice was received by the depositary.

Article 73:

Instruments of ratification, acceptance or approval of this Convention and of amendments thereto shall be deposited with the Bank which shall act as the depositary of this Convention. The depositary shall transmit certified copies of this Convention to States members of the Bank and to any other State invited to sign the Convention.

Article 74:

The depositary shall register this Convention with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations and the Regulations thereunder adopted by the General Assembly.

Article 75:

The depositary shall notify all signatory States of the following:

- (a) signatures in accordance with Article 67;
- (b) deposits of instruments of ratification, acceptance and approval in accordance with Article 73;
- (c) the date on which this Convention enters into force in accordance with Article 68;
- (d) exclusions from territorial application pursuant to Article 70;
- (e) the date on which any amendment of this Convention enters into force in accordance with Article 66; and
- (f) denunciations in accordance with Article 71.

DONE at Washington in the English, French and Spanish languages, all three texts being equally authentic, in a single copy which shall remain deposited in the archives of the International Bank for Reconstruction and Development, which has indicated by its signature below its agreement to fulfil the functions with which it is charged under this Convention.

(Here follow the executions on behalf of the several parties)

REPUBLIC OF ZAMBIA

THE EVIDENCE ACT

CHAPTER 43 OF THE LAWS OF ZAMBIA

CHAPTER 43 THE EVIDENCE ACTCHAPTER 43

THE EVIDENCE ACT

ARRANGEMENTS OF SECTIONS

Section

1. Short title
2. Interpretation
3. Admissibility of documentary evidence as to facts in issue
4. Admissibility of certain trade or business or professional records in criminal proceedings
5. Weight to be attached to evidence
6. Proof of instrument to validity of which attestation is necessary
7. Presumptions as to documents twenty years old
8. Rules of court
9. Savings

CHAPTER 43

EVIDENCE⁸ of 1967
3 of 1968

An Act to amend the law of evidence.

[27th January, 1967]

1. This Act may be cited as the Evidence Act.Short title
2. In this Act, unless the context otherwise requires-Interpretation

"business" includes any public transport, public utility or similar undertaking carried on by a local authority and the activities of the General Post Office;

"document" includes any device by means of which information is recorded or stored, and books, maps, plans and drawings;

"proceedings" includes arbitration and references, and "court" shall be construed accordingly;

"statement" includes any representation of fact, whether made in words or

otherwise.

(As amended by No. 3 of 1968)

3. (1) In any civil proceedings where direct oral evidence of a fact would be admissible, any statement made by a person in a document and tending to establish that fact shall, on production of the original document, be admissible as evidence of that fact if the following conditions are satisfied, that is to say: Admissibility of documentary evidence as to facts in issue

(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 thereby 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 proceedings:

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 Zambia 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 civil proceedings, the court may, at any stage of the proceedings, 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) shall be admissible as evidence or may, without any such order having been made, admit such a statement in evidence-

(a) notwithstanding that the maker of the statement is available but is not called as a witness;

(b) notwithstanding that the original document is not produced, if in lieu thereof there is produced a copy of the original document or of the material part thereof 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) 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 thereof 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.

(4) For the purposes of deciding whether or not a statement is admissible as evidence by virtue of the foregoing provisions, the court may draw any reasonable inference from the form or contents of the documents 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 medical practitioner, and, where the proceedings are with the aid of assessors, the court may in its discretion reject the statement notwithstanding that the requirements of this section are

satisfied with respect thereto, if for any reason it appears to it to be inexpedient in the interests of justice that the statement should be admitted.

4. (1) In any criminal proceedings where direct oral evidence of a fact would be admissible, any statement contained in a document and tending to establish that fact shall, on production of the document, be admissible as evidence of that fact if-Admissibility of certain trade or business or professional records in criminal proceedings

(a) the document is, or forms part of, a record relating to any trade or business or profession and compiled, in the course of that trade or business or profession, from information supplied (whether directly or indirectly) by persons who have, or may reasonably be supposed to have, personal knowledge of the matters dealt with in the information they supply; and

(b) the person who supplied the information recorded in the statement in question is dead, or outside of Zambia, or unfit by reason of his bodily or mental condition to attend as a witness, or cannot with reasonable diligence be identified or found, or cannot reasonably be expected (having regard to the time which has elapsed since he supplied the information and to all the circumstances) to have any recollection of the matters dealt with in the information he supplied.

(2) 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 content of the document in which the statement is contained, and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be a certificate of a fully registered medical practitioner.

(No. 3 of 1968)

5. (1) In estimating the weight, if any, to be attached to a statement admissible as evidence by virtue of 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 to the question whether or not the person who supplied the information contained or recorded in the statement did so contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not that person, or any person concerned with making or keeping the record containing the statement, had any incentive to conceal or misrepresent the facts. Weight to be attached to evidence

(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.

(As amended by No. 3 of 1968)

6. Subject as hereinafter provided, in any proceedings, whether civil or criminal, an instrument to the validity of which attestation is requisite 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: Proof of instrument to validity of which attestation is necessary

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

7. In any proceedings, whether civil or criminal, there shall, in the case of a document proved, or purporting, to be not less than twenty years old, be made any presumption which immediately before the commencement of this Act would have been made in the case of a document of like character proved, or purporting, to be not less than thirty years old. Presumptions as to documents twenty years old

8. It is hereby declared that section forty-four of the High Court Act and section fifty-seven of the Subordinate Courts Act authorise the making of rules of court providing for orders being made at any stage of any proceedings directing that specified facts may be proved at the trial by affidavit with or without the attendance of the deponent for cross-examination, notwithstanding that a party desires his attendance for cross-examination and that he can be produced for that purpose. Rules of court.

Cap. 27

Cap. 28

9. Nothing in this Act shall-

(a) prejudice the admissibility of any evidence which would apart from the provisions of this Act be admissible; or

(b) enable documentary evidence to be given to any declaration relating to a matter of pedigree, if that declaration would not have been admissible as evidence if this Act had not been passed.

Savings

REPUBLIC OF ZAMBIA

THE EVIDENCE (BANKERS' BOOKS) ACT

CHAPTER 44 OF THE LAWS OF ZAMBIA

CHAPTER 44 THE EVIDENCE (BANKERS' BOOKS) ACT CHAPTER 44

THE EVIDENCE (BANKERS' BOOKS) ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Mode of proof of entries in banker's books
4. Proof that book is a banker's book
5. Verification of copy
6. Case in which banker, etc., not compellable to produce book, etc.
7. Court may order inspection, etc.
8. Warrant to investigate

9. Costs

CHAPTER 44

EVIDENCE (BANKERS' BOOKS)

An Act to amend the law of evidence with respect to bankers' books; and to provide for matters incidental thereto.

[31st July, 1964]

31 of 1964
12 of 1980
13 of 1994
Government Notice
497 of 1964

1. This Act may be cited as the Evidence (Bankers' Books) Act. Short title

2. In this Act, unless the context otherwise requires— Interpretation

"bank" or "banker" means any person carrying on the business of banking in Zambia under the provisions of the Banking and Financial Services Act Cap. 387

"banker's book" includes ledgers, day books, cash books, account books and all other records used in the ordinary business of the bank, whether such records are in form or in microfilm, magnetic tape or any other form of mechanical or electronic data retrieval mechanism

(As amended by Act No. 12 of 1980)

"building society" means a building society incorporated in Zambia under the law for the time being in force relating to building societies;

"court" means the court, Judge, arbitrator or person or persons before whom a legal proceeding is held or taken;

"Judge" means a Judge of the Supreme Court or a Judge of the High Court;

"legal proceeding" means any civil or criminal proceeding or inquiry (including an arbitration) in which evidence is or may be given, in Zambia.

(As amended by Act No. 12 of 1980)

3. Subject to the provisions of this Act, a copy of any entry in a banker's book shall in all legal proceedings be received as prima facie evidence of such entry, and of the matters, transactions and accounts therein recorded. Mode of proof of entries in banker's books

4. (1) A copy of an entry in a banker's book shall not be received in evidence under this Act unless it be first proved that the book was at the time of the making of the entry one of the ordinary books of the bank, and that the entry was made in the usual and ordinary course of business, and that the book is in the custody or control of the bank. Proof that book is a banker's book

(2) Such proof may be given by a partner or officer of the bank, and may be given orally or by an affidavit sworn before any commissioner for oaths or person authorised to take affidavits.

5. (1) A copy of an entry in a banker's book shall not be received in evidence under this Act unless it be further proved that the copy has been examined with the original entry and is correct. Verification of copy

(2) Such proof shall be given by some person who has examined the copy with the original entry, and may be given either orally or by an affidavit sworn before any commissioner for oaths or person authorised to take affidavits.

6. A banker or officer of a bank shall not, in any legal proceedings 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 special cause. Case in which banker, etc., not compellable to produce book, etc.

7. (1) On the application of any party to a legal proceeding a court 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. Court may order inspection, etc.

(2) 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 otherwise directs.

8. (1) Where it is proved on oath to a Judge or a magistrate that in fact, or according to reasonable suspicion, the inspection of any banker's book is necessary or desirable for the purpose of any investigation into the commission of an offence, the Judge or magistrate may by warrant authorise a police officer or other person named therein to investigate the account of any specified person in any banker's book, and such warrant shall be sufficient authority for the production of any such banker's book as may be required for scrutiny by the officer or person named in the warrant, and such officer or person may take copies of any relevant entry or matter in such banker's book. Warrant to investigate Costs

(2) Any person who fails to produce any such banker's book to the police officer or other person executing a warrant issued under this section or to permit such police officer or other person to scrutinise the same or to take copies of any relevant entry or matter therein shall be guilty of an offence and liable to a fine not exceeding two thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

(As amended by Act No. 13 of 1994)

9. (1) The costs of any application to a court under or for the purposes of this Act, and the costs of anything done or to be done under an order of a court made under or for the purposes of this Act, shall be in the discretion of the court, which may order the same or any part thereof to be paid to any party by the bank where the same have been occasioned by any default or delay on the part of the bank.

(2) Any such order against a bank may be enforced as if the bank was a party to

the proceedings.

REPUBLIC OF ZAMBIA

THE FEES AND FINES ACT

CHAPTER 45 OF THE LAWS OF ZAMBIA

CHAPTER 45 FEES AND FINES CHAPTER 45

FEES AND FINES

CHAPTER 45

An act to provide for the amounts of fees and fines to be expressed in terms of the fee units and penalty units; to provide for the amounts of existing fees and fines to be converted into fee units and penalty units; and to provide for matters connected with or incidental to the foregoing.

[3rd June, 1994] 13 of 1994

6 of 1996

PART I

PRELIMINARY

1. (1) This Act may be cited as the Fees and Fines Act. Short title and commencement

(2) This Act shall be deemed to have commenced on the 29th January, 1994.

2. (1) In this Act, unless the context otherwise requires-

"fee" includes tax, levy, charge and any other impost, whether or not a service is provided in exchange for the payment thereof;

"fine" means any pecuniary penalty that may be imposed by a court for an offence. Interpretation

(2) For the purposes of the application of this Act to other Acts-

(a) a reference in any other Act to a number of ngwee shall be read as a reference to the appropriate fraction of a kwacha; and

(b) a reference to another Act does not include a reference to any statutory instrument made under that Act.

PART II

FEES AND FEE UNITS

3. In any written law, unless the context otherwise requires, "fee unit" means one hundred and eighty kwacha. Fee units

4. Where a provision in any Act imposes a fee and the fee is expressed as-

(a) a specified number of kwacha; or

(b) a rate whereby a specified number of kwacha is payable for a specified quantity of any thing, or a specified period of time;

the provision shall be read as if the fee were expressed instead as-Fees expressed in kwacha amounts are to be converted to fees expressed in fees units

(i) the number of fee units calculated in accordance with section five; or

(ii) a rate whereby the number of fee units calculated in accordance with section five is payable for the specified quantity, or specified period of time;

as the case may require.

5. (1) The number of fee units that corresponds, for the purposes of section four, to the amount in kwacha of a fee shall be calculated as follows:Method of conversion

(a) the number of kwacha shall be multiplied by the appropriate multiplier;

(b) the result shall be divided by one hundred;

(c) the required number of fee units shall be-

(i) the quotient obtained under paragraph (b), if it is a whole number; or

(ii) the next highest whole number, if that quotient is not a whole number.

(2) In this section, "appropriate multiplier", in relation to the amount of a fee prescribed by an Act, means the number specified in the Schedule that corresponds to-

(a) the year in which the fee was last varied by amendment of the provision concerned; or

(b) if it has never been so varied, the year in which that provision came into force.

PART III

FINES AND PENALTY UNITS

6. In any written law, unless the context otherwise requires, "penalty unit" means one hundred and eighty kwacha.Penalty units

7. Where any Act provides that a fine may be imposed for an offence and the amount of the fine, or the maximum amount of the fine, that may be so imposed is expressed as-

(a) a specified number of kwacha; or

(b) a rate whereby a specified number of kwacha is payable in respect of a specified quantity of any thing, or in respect of a specified period of time;

the provision shall be read as if the amount, or maximum amount, of the fine

were expressed instead as-Fines expressed in kwacha amounts are to be converted to fines expressed in penalty units

(i) the number of penalty units calculated in accordance with section eight; or

(ii) a rate whereby the number of penalty units calculated in accordance with section eight is payable in respect of the specified quantity, or specified period of time;

as the case may require.

8. (1) The number of penalty units that corresponds, for the purposes of section seven, to the amount in kwacha of a fine shall be calculated as follows:Method of conversion

(a) the number of kwacha shall be multiplied by the appropriate multiplier;

(b) the result shall be divided by one hundred;

(c) the required number of penalty units shall be-

(i) the quotient obtained under paragraph (b), if it is a whole number; or

(ii) the next highest whole number, if that quotient is not a whole number.

(2) In this section, "appropriate multiplier", in relation to a fine imposed by a provision of any Act, means the number specified in the Schedule that corresponds to-

(a) the year in which the fine was last varied by amendment; or

(b) if it has never been so varied, the year in which that provision came into force.

SCHEDULE

(Sections 5 and 8)

MULTIPLIERS FOR FEES AND FINES IN ACTS

Year in which fee or fine was last varied Multiplier

1970 or earlier 1500

1971-1975 1000

1976-1980 500

1981-1985 250

1986 125

1987 75

1988 50

1989	25
1990	15
1991	8
1992	4
1993	2
1994	1

REPUBLIC OF ZAMBIA

THE COUNCIL OF LAW REPORTING ACT

CHAPTER 46 OF THE LAWS OF ZAMBIA

CHAPTER 46 THE COUNCIL OF LAW REPORTING ACT CHAPTER 46

THE COUNCIL OF LAW REPORTING ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Constitution of Council
4. Membership and proceedings of Council
5. Objects and functions of Council
6. Appointments by Council
7. Contracts and other instruments
8. Remuneration and allowances payable
9. Funds of Council
10. Accounts, audit and report
11. Validation of appointment of General Editor made before constitution of Council

CHAPTER 46

COUNCIL OF LAW REPORTING 58 of 1967
22 of 1970

An Act to establish a Council of Law Reporting; to specify its functions and for purposes connected with the aforesaid matters.

[15th December, 1967]

1. This Act may be cited as the Council of Law Reporting Act. Short title

2. In this Act, unless the context otherwise requires- Interpretation

"Council" means the Council of Law Reporting constituted by section three;

"ex officio member" includes a member who is a Judge of the Supreme Court or a Judge, but does not include the General Editor of the Zambia Law Reports;

"financial year" means the period of twelve months ending on the 31st December in each year:

Provided that the financial year of the Council commencing on the 1st July, 1969, shall be the period of eighteen months ending on the 31st December, 1970.

(As amended by No. 22 of 1970)

3. There is hereby constituted a Council of Law Reporting which shall under that name be a body corporate with perpetual succession and a common seal, capable of suing and being sued, acquiring, holding and disposing of property, entering into agreements and performing all such acts as are necessary for or connected with the carrying out of its objects and the exercise and performance of its functions under this Act or any law. Constitution of Council

4. (1) The Council shall consist of- Membership and proceedings of Council

(a) the Chief Justice;

(b) a Judge of the Supreme Court or High Court Judge nominated by the Chief Justice;

(c) the Attorney-General, the Solicitor-General and the Director of Public Prosecutions;

(d) two legal practitioners nominated by the Law Society of Zambia and appointed by the Minister;

(e) two members of the academic staff of the School of Law of the University of Zambia nominated by the Vice-Chancellor of the University on the recommendation of the School and appointed by the Minister; and

(f) the General Editor of the Zambia Law Reports appointed under section six if he is not a member by virtue of any of the preceding paragraphs.

(2) The chairman of the Council shall be the Chief Justice.

(3) Members of the Council shall hold office as such-

(a) in the case of ex officio members, as long as they hold the office by virtue of which they are members of the Council;

(b) in the case of the member who is the General Editor, as long as he holds the appointment of General Editor; and

(c) in the case of any other member, for a period of three years from the date of his appointment:

Provided that any member referred to in paragraph (c) may by writing addressed to the Council resign his office as such at any time.

(4) A member vacating his office as a member of the Council shall be eligible for reappointment.

(5) The quorum of a meeting of the Council shall be five.

(6) Subject to this Act, the Council shall determine and regulate its own procedure.

5. The objects and functions of the Council are-

(a) to organise, regulate and control the reporting of decisions of the courts and of such tribunals and inquiries as it may determine;

(b) to arrange for the production, publication and distribution, whether by sale or otherwise, of the Zambia Law Reports at such regular periods of time as it may determine;

(c) to provide assistance in the production of the University Law Review. Objects and functions of Council

6. The Council shall appoint-

(a) an Editorial Board, whether from its own members or not, for the purpose of assisting the Council in the carrying out of its objects and functions;

(b) a General Editor of the Zambia Law Reports whose functions shall be such as the Council may from time to time determine; Appointments by Council

(c) such number of reporters as it may determine;

(d) such staff as it considers necessary for the exercise and performance of its functions.

(As amended by No. 22 of 1970)

7. An agreement, contract or instrument may be entered into, or executed on behalf of the Council by the chairman and one other member of the Council generally or specially authorised by the Council for the purpose. Contracts and other instruments

8. (1) Subject to subsection (2), there shall be paid out the funds of the Council-Remuneration and allowances payable

(a) to the members of the Council and members of the Editorial Board who are not also members of the Council, allowances to cover expenses reasonably incurred by them in respect of their attendance at meetings of the Council or the Editorial Board but not otherwise;

(b) to the General Editor, an honorarium of such amount as the Council may determine in addition to any allowances payable under paragraph (a);

(c) to the reporters appointed by the Council, such fees as the Council may determine; and

(d) to staff appointed by the Council, such salaries as it may determine.

(2) Ex officio members of the Council and public officers holding any appointment under or by virtue of this Act shall not be entitled to any allowances, honorarium, fees or salary by virtue of this section.

9. The funds of the Council shall consist of-

(a) such moneys as may be payable to the Council out of moneys appropriated by Parliament for the purpose;

(b) such other moneys and assets as may vest in or accrue to the Council in the discharge of its functions or otherwise. Funds of Council

10. (1) The Council shall cause to be kept proper books of account which shall be audited annually by auditors approved by the Minister. Accounts, audit and report

(2) The Council shall, not later than six months after the termination of each financial year, submit to the Minister the audited accounts.

(3) The Minister shall lay the audited accounts before the National Assembly not later than seven days after the first sitting of the National Assembly next after the receipt thereof.

11. (1) If, before the constitution of the Council, the Minister has, on behalf of the Council, appointed any person to be the General Editor of the Zambia Law Reports, then the appointment shall have effect and operate as if the Council had been in existence at the date of the appointment and had itself appointed the person to be the General Editor of the Zambia Law Reports, notwithstanding that this Act may not have been enacted at the time the appointment was made. Validation of appointment of General Editor made before constitution of Council

(2) As from the date of the constitution of the Council, the Minister shall be released from any liability arising out of an appointment to which subsection (1) relates.

REPUBLIC OF ZAMBIA

THE SMALL CLAIMS COURTS ACT

CHAPTER 47 OF THE LAWS OF ZAMBIA

CHAPTER 47 THE SMALL CLAIMS COURTS ACT. CHAPTER 47

THE SMALL CLAIMS COURTS ACT.

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

ESTABLISHMENT OF SMALL CLAIMS COURTS

3. Establishment of small claims courts
4. Composition of a small claims court
5. Jurisdiction of a small claims court
6. Appointment of arbitrators
7. Qualifications for appointment as arbitrator
8. Tenure of office
9. Conflict of interest
10. Appointment of small claims courts officers
11. Sittings

PART III

PROCEEDINGS IN A SMALL CLAIMS COURT

12. Proceedings to be in open court
13. Parties to appear in person
14. Aim of small claims court when adjudicating
15. Language to be used
16. Court not to be bound by rules of evidence

PART IV

POWERS OF A SMALL CLAIMS COURT

17. General powers
18. Issue of summons
19. Counterclaims
20. Powers relating to orders

Section

21. Powers relating to enforcement of awards
22. Finality of awards
23. Costs
24. Powers relating to warrants of distress

PART V

OFFENCES RELATING TO ADMINISTRATION OF JUSTICE

25. Contempt of a small claims court
26. Obstruction of officers of small claims courts
27. Adjudication without authority
28. Funds of a small claims court
29. Administrative expenses
30. Immunity of arbitrators and officers of small claims courts
31. Rules

CHAPTER 47

SMALL CLAIMS COURTS²³ of 1992
13 of 1994

An Act to provide for the establishment, constitution, jurisdiction, powers and procedure of small claims courts; and to provide for matters connected with or incidental to the foregoing.

[31st July, 1992

PART I

PRELIMINARY

1. This Act may be cited as the Small Claims Courts Act. Short title
2. (1) In this Act, unless the context otherwise requires-

"arbitrator" means any person appointed by the Commission under section six;

"award" means the decision made by the arbitrator under section twenty in favour of one of the parties to a claim;

"Commission" means the Judicial Service Commission established under Article one hundred and nine of the Constitution;

"practitioner" shall have the meaning assigned to it by section two of the Legal Practitioners Act; and "legal practitioner" shall be construed accordingly;

"small claims court officer" means an officer appointed under section ten;

"small claims court" means a court established under section three;

"subordinate court" means a subordinate court constituted under the Subordinate Courts Act.

Interpretation

Cap. 30

Cap. 28

PART II

ESTABLISHMENT OF SMALL CLAIMS COURTS

3. There is hereby established small claims courts which shall be situated in such areas as the Chief Justice may consider necessary, having regard to the needs of a particular area.

4. One arbitrator, sitting alone, shall constitute a small claims court.

5. The jurisdiction of a small claims court shall be limited to liquidated claims of not more than four thousand fee units and shall be exercised by way of arbitration.

(As amended by Act No. 13 of 1994)

6. The Commission acting in the name of, and on behalf of, the President may appoint such number of persons as it considers necessary to be arbitrators over small claims courts.

7. No person shall be qualified to be appointed as an arbitrator unless he is a legal practitioner of not less than five years standing.

8. An arbitrator shall be appointed on a part-time basis and shall be paid such allowance as may be prescribed under this Act.

9. No person shall sit as an arbitrator in any matter in which he is a party or, in which he has a direct or indirect pecuniary or personal interest.

10. (1) The Commission may appoint such number of small claims courts officers as it considers necessary for the purpose of carrying out the provisions of this Act.

(2) The small claims 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.

11. A small claims court shall sit at such times and places as may be necessary for the convenient and speedy despatch of business.

PART III

PROCEEDINGS IN A SMALL CLAIMS COURT

12. (1) Proceedings in a small claims court shall be held in open court. Proceedings to be in open court

(2) The proceedings shall be simple and informal.

13. (1) No legal practitioner, other than a practitioner who is a party acting solely on his own behalf, may appear or act before a small claims court on behalf of any party to the proceedings. Parties to appear in person

(2) Subject to subsection (1), a small claims court may permit any person who is the spouse, guardian or other member of the household of a party in any proceedings before the court to appear or act for that party, if he satisfies the court that he has the authority of the party to so appear or act.

(3) Subject to subsection (1) a body corporate or an unincorporated body which is a party to the proceedings before a small claims court may be represented by any person or agent who is authorised by that body to appear on its behalf.

14. A small claims court shall, when adjudicating, aim at the reconciliation of the parties and it shall be the primary function of the court to do substantial justice between the parties. Aim of small claims court when adjudicating

15. (1) The business of a small claims court shall be conducted in English or in such other language as, in the opinion of the court, is convenient for the court and all the parties before it. Language to be used

(2) Where a party to the proceedings is not conversant with the language being used in the court, the party shall be allowed, or provided with, an interpreter.

(3) Whenever any language other than English is used in any proceedings, the court shall cause to be made an English translation of the proceedings before it, but shall not maintain a case record of the proceedings.

16. (1) The court shall, not be bound by rules of evidence, but shall apply the law and equity. Court not to be bound by formal rules of evidence

(2) Evidence in a small claims courts shall be given on oath or affirmation.

PART IV

POWERS OF A SMALL CLAIMS COURT

17. A small claims court shall hear the facts of the case and receive any documents relating to the claim before it and do all such things as are authorised by this Act or, as are necessary for the exercise of its functions under this Act. General powers

18. (1) A small claims court may summon any person who is a defendant or witness in any matter before it. Issue of summons

(2) The costs of serving or attempting to serve any summons issued by a small claims court relating to any matter shall be borne by the party at whose instance the summons was issued.

(3) Where a defendant is summoned under subsection (1), and has reasonable notice of the time and place at which he is required to attend, but fails to attend without any reasonable cause, the court may arrest him for contempt of court if it is satisfied that the summons was properly served on him.

19. A counterclaim by the defendant may be made in a claim brought against him the claimant. Counter-claims

20. (1) A small claims court, upon concluding the hearing of a matter, may do the following: Powers relating to orders

(a) dismiss the claim;

(b) make an award with or without interest;

(c) order the restitution of any property;

(d) order the specific performance of a contract, other than a contract of personal service, between the parties before the court; or

(e) make any other order which the justice of the matter requires;

(2) Every award or dismissal, as the case may be, made by the arbitrator under this section shall be registered in the High Court registry and shall state the following:

(a) in the case of a dismissal, the reasons therefor;

(b) in the case of a monetary award, when the award is due and payable, the manner of payment, whether by instalments or by one lumpsum and the period of payment;

(c) in the case of restitution, the period within which the restitution of property should be made; and

(d) in the case of specific performance of a contract the period within which such performance should be done.

21. A small claims court shall have the powers to enforce any award made under this Act including the issue of a warrant of distress under section twenty-four. Powers relating to enforcement of awards

22. The awards of a small claims court shall be final, but appeal to the High Court shall be allowed on points of law only. Finality of awards

23. The court shall not order costs in any matter before it. Costs

24. (1) A small claims court may issue a warrant of distress against any person who has failed to pay a sum due and payable to a party in proceedings before it. Powers relating to warrants of distress

(2) A warrant of distress issued under this Act shall be in the prescribed form.

(3) A warrant of distress shall not apply to the following property:

(a) personal clothing, beds and beddings and household utensils for the use of the owner and his family;

(b) implements of husbandry and tools of trade of the owner; and

(c) foodstuffs required for the feeding of the owner and his dependants.

(4) A warrant of distress shall not apply to property which is claimed by a third party, or in respect of which any third party has an interest.

(5) Where a warrant of distress issued under this section is to be executed at a place more than fifty kilometres from the place where the small claims court sat, that court may forward the warrant by post, by hand or otherwise, to the sheriff's office within whose territorial jurisdiction it is to be executed.

(6) Where there is no property to be seized, the sheriff shall apply to the subordinate court within that territorial jurisdiction and the court shall summon the debtor and order payment to the claimant.

PART V

OFFENCES RELATING TO ADMINISTRATION OF JUSTICE

25. Any person who is subject to the jurisdiction of a small claims court and who, without reasonable excuse-

(a) fails to obey any summons issued by the court;

(b) threatens, intimidates or insults that court while sitting in that capacity;

(c) intentionally interrupts the proceedings of that court or otherwise behaves in a disorderly manner before that court;

(d) deliberately omits to deliver up any document or thing in accordance with an order of the court;

(e) refuses to answer any question asked by the court;

(f) while any proceedings are in progress in the court, makes use of any speech or writing misrepresenting any proceedings of that court in such a way as to prejudice the arbitrator in favour of, or against, any party to those proceedings;

(g) having the means to pay any sum awarded against him, or due from him, refuses or wilfully fails to make the payment after due notice; or

(h) wilfully disobeys or fails to comply with any other lawful order of that court;

shall be guilty of an offence and shall be liable, upon conviction to a fine not exceeding four hundred penalty units or to a term of imprisonment not exceeding six months, or to both.

(As amended by Act No. 13 of 1994) Contempt of a small claims court

26. Any person who obstructs, any officer of a small claims court or other

person executing a warrant of distress or an order issued or made in the exercise of the powers conferred by this Act, shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding four hundred penalty units or to a term of imprisonment not exceeding six months, or to both.

(As amended by Act No. 13 of 1994)Obstruction of officers of small claims courts

27. Any person who, without lawful authority, purports to exercise judicial functions as an arbitrator or, falsely holds himself out to be an arbitrator, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding eight hundred penalty units or to a term of imprisonment not exceeding twelve months, or to both.

(As amended by Act No. 13 of 1994)Adjudication without authority

PART VI

MISCELLANEOUS

28. The following moneys shall be paid into, or paid out of a revolving fund created for that purpose under section eight of the Finance (Control and Management) Act:

(a) prescribed fees paid to a small claims court in respect of proceedings before it;

(b) money paid into a small claims court in the form of awards ordered to be paid to the other party; and

(c) such other funds as the Permanent Secretary responsible for finance may determine to be paid into, or out of, the funds of a small claims court.

Cap. 347

29. (1) The administrative expenses of a small claims court shall be a charge on the general revenues of the Republic.

(2) A claimant shall pay such fee as may be prescribed when lodging the claim.

30. No action or other proceedings shall lie or be instituted against an arbitrator or any other officer of a small claims court for, or in respect of, any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.

31. The Chief Justice may, by statutory instrument, make rules for the better carrying out of the provisions of this Act, and, in particular, but without prejudice to the generality of such power, such rules may-

(a) regulate the practice and procedure of small claims courts;

(b) prescribe the fees to be charged under this Act;

(c) prescribe forms;

(d) prescribed the duties of officers of small claims courts;

- (e) prescribe allowances and expenses to be paid to the arbitrator; and
- (f) prescribe anything which is authorized or required to be prescribed under this Act.

Rules

SUBSIDIARY LEGISLATION

THE SMALL CLAIMS COURTS RULES.

ARRANGEMENT OF RULES

PART I

PRELIMINARY

Rule

1. Title
2. Interpretation

PART II

COMMENCEMENT OF CLAIMS AND SERVICE OF PROCESS

3. Filing of Notice of Claim
4. Receipt of Notice of Claim
5. Certificate of Service of Notice of Claim
6. Service of Form 2 on Claimant
7. Filing of Notice of Admission, Defence and Counterclaim
8. Awards in default of defence and for admitted claims

PART III

HEARING OF CASES

9. Notice of Hearing
10. Appearance of parties
11. Absence of both parties or any of them
12. Where both parties are present

PART IV

INTERNAL PROCEDURES OF COURT AND AWARDS

13. Notes of proceedings

14. Award
15. Registration of award
16. Particulars of Award and Dismissal of Claim

PART V

APPEALS

Rule

17. Warrants of Distress
18. Appeal and stay of execution
19. Notice of Appeal

PART VI

OTHER MATTERS

20. Fees
21. Court messenger's expense
22. Witnesses expenses
23. Sitting allowance
24. Subsistence allowance
25. Travelling allowance
26. Duties and functions of Clerk of the Court

FIRST SCHEDULE-List of Forms

SECOND SCHEDULE-Fees

SECTION 31-SMALL CLAIMS COURTS RULES

Rules by the Chief Justice Statutory Instrument
85 of 1994
Act No.
13 of 1994

PART I

PRELIMINARY

1. These Rules may be cited as the Small Claims Courts Rules. Title
2. (1) In these Rules, unless the context otherwise requires-

"arbitrator" has the meaning assigned to it under subsection (1) of section two of the Act;

"award" has the meaning assigned to it in section two of the Act;

"claim" means a civil proceeding brought under rule 3;

"claimant" means a person who has filed a claim in court otherwise than by way of a counterclaim or as a defendant;

"Clerk of the Court" means a person appointed as such under section ten of the Act and includes an Assistant Clerk of the Court or other officer performing or assisting a Clerk in his duties;

"court" means a Small Claims Court established under section three of the Act;

"court messenger" means a person authorised to serve process and levy distress and otherwise execute orders of the court;

"defendant" means a person against whom a claim has been filed in court;

"expenses" includes allowances;

"fee" means money paid to a court on filing any document;

"process" means any document issued by a court;

"Registrar" means the Registrar of the High court and includes a Deputy Registrar, District Registrar and Assistant Registrar;

"sheriff" has the meaning assigned to it in section two of the Sheriffs Act;

"warrant of distress" means a warrant issued by the court under section twenty-four of the Act; Interpretation

(2) Wherever in these Rules anything is required to be done within a specified number of days from the happening of any event, the period shall start to run from the day on which the event aforesaid occurs.

PART II

COMMENCEMENT OF CLAIMS AND SERVICE OF PROCESS

3. A claim shall be commenced by the claimant completing and filing with the Clerk of the Court, upon payment of the prescribed fee, a Notice of Claim, which shall be in Form 1 of the First Schedule. Filing of Notice of Claim

4. (1) A Notice of Claim shall, before being issued, be stamped with the Registry stamp, given a number and the particulars of the claim and the names of the parties entered in the Register. Receipt of Notice of Claim

(2) A Notice of Admission, Defence or Counter claim in Form 2 of the First Schedule shall be attached to a copy of the Notice of Claim for Service upon the defendant.

(3) A receipt for the prescribed fee shall be issued to the claimant in such form as may be prescribed.

5. The court messenger shall personally serve upon the defendant a Notice of Claim to which shall be attached Form 2 of the First Schedule and thereafter file in court a Certificate of Service in Form 3 of the First Schedule. Certificate of service of Notice of Claim

6. The Court messenger shall serve a copy of the completed Form 2 upon the claimant. Service of Form 2 of claimant

7. The defendant shall within 14 days of service upon him of the Notice of Claim complete and file with the Clerk of the court Form 2, which will have been served together with the Notice of Claim, indicating his admission of the claim, his intention to defend the claim or to counterclaim. Filing of Notice of Admission, Defence and Counter-claim

8. The arbitrator shall make an appropriate award where-

(a) the defendant fails to file a defence after 14 days of service of the Notice of Claim upon him but an award made under this paragraph shall on sufficient cause being shown be set aside on an application made in Form 4 of the First Schedule by the defendant made to the court within 7 days of the defendant being award of the award.

(b) the claim or part of it is admitted. Awards in default of defence and for admitted claims

PART III

HEARING OF CASES

9. The Clerk of the Court shall, upon receipt of Form 2, if any, issue and cause to be served upon the parties a Notice of Hearing in Form 5 of the First Schedule, specifying the date, time and place of the court sitting and the name of the arbitrator. Notice of Hearing

10. The parties shall attend the hearing in person. Appearance of parties

11. (1) If none of the parties attend or if the claimant fails to attend the hearing, the claim may be dismissed except where there is a counterclaim, in which case the court may hear the defendant and make an award in his favour and, if the defendant fails to attend the hearing, an award may be made against him and the counterclaim, if any, dismissed: Absence of both parties of any of them

Provided that an award in the absence of a party may be set aside on sufficient cause being shown and a claim dismissed may be reopened and restored to the active list on sufficient cause being shown.

(2) Any application to set aside an award or re-open a claim shall be made within 7 days and shall be in Forms 4 and 6, respectively, of the First Schedule.

12. (1) Where both parties attend, the claimant shall open his case and call witnesses, if any, and may be cross-examined by the defendant. Where both parties are present

(2) At the close of the claimant's case, the defendant shall present his defence and counterclaim, if any, and call witnesses, if any, and may be

cross-examined by the claimant.

(3) The evidence of the parties and witnesses shall be taken on oath or affirmation.

(4) At the close of the proceedings no party shall address the court.

PART IV

INTERNAL PROCEDURES OF COURT AND AWARDS

13. The court shall not maintain a case record of the proceedings but shall keep notes of such proceedings. Notes of proceedings

14. (1) The court may either dismiss the claim or make an award. Award

(2) The decision of the court shall not be reserved to another day and shall be delivered in open court and after delivery shall be reduced to Form 7 of the First Schedule.

15. Every award or dismissal of the claim shall be entered against the claim in the Register opened and maintained for that purpose and shall be open to personal inspection by the parties during office hours. Registration of award

16. Particulars of every award or dismissal of the award and the claim shall be in Form 8 of the First Schedule and shall be transmitted to the Registrar of the High Court in terms of subsection (2) of section twenty of the Act. Particulars of awards of dismissal of claim

17. (1) An award which has not been settled shall be enforced by the court issuing a warrant of distress under section twenty-one and under subsection (1) of section twenty-four of the Act, which warrant shall be in Form 9 of the First Schedule. Warrants of distress

(2) A warrant of distress shall be executed by a court messenger or the Sheriff of Zambia.

PART V

APPEALS

18. A party aggrieved by the decision of the court may, within 30 days of the decision, appeal to the High Court on a point of law but such appeal shall not operate as stay of execution of the award. Appeal and stay of execution

19. (1) A Notice of Appeal shall be in Form 10 of the First Schedule. Notice of appeal

(2) An appellant may at any time after lodging the appeal and before it is heard withdraw it by filing a Notice of Withdrawal in Form 11 of the First Schedule and shall serve a copy on the respondent.

PART VI

OTHER MATTERS

20. The fees prescribed in the Second Schedule shall be paid by the person at

whose instance the document concerned is filed or issued. Fees

21. (1) The court messenger's expenses for serving or attempting to serve any court process on any party or witness shall be borne by the party at whose instance the process was issued. Court messenger's expenses

(2) For the purpose of sub-rule (1) the rates applicable shall be those for the time being applicable to Local Courts.

22. A witness's travelling expenses and subsistence allowance shall be borne by the party calling him and for this purpose rule 21 (2) shall apply. Witnesses expenses

23. An arbitrator shall be paid, out of the general revenues of the Republic, a sitting allowance equivalent to that paid to the Chairman of a Commission of Inquiry appointed under the Inquiries Act. Sitting allowance
Cap. 41

24. An arbitrator who has to spend a night away from home on account of sitting shall be paid subsistence allowance applicable to a superscale officer in the Civil Service, but where the hotel bill is greater than the allowance, he shall be paid the actual cost of board and accommodation. Subsistence allowance

25. An arbitrator who uses his private transport shall be paid kilometer allowance at the rate applicable to a superscale officer in the Civil Service. Travelling allowances

26. The duties and functions of the Clerk of the Court at each Registry of the Small Claims Court shall, in addition to any other duties and functions imposed by any of these Rules or any other written law, be-

- (a) to issue and stamp all documents filed in court;
- (b) to verify all court fees payable on all documents filed in court;
- (c) to keep and maintain a Claims Register in which the following particulars shall be entered: Duties and functions of Clerk of the Court
 - (i) the case number;
 - (ii) the names of the parties;
 - (iii) the particulars of the Notice of Claim;
 - (iv) the date of filing a Notice of Admission, Defence or Counterclaim;
 - (v) the outcome of the claim;
- (d) to issue and stamp Notices of Hearing, Notices of Appeal, Warrants of Distress and Summons to Witnesses;
- (e) to seal all awards;
- (f) to remit in Form 8 particulars of any award or dismissal of claim to the Registrar of the High Court;
- (g) to prepare and remit records of appeals to the High Court;

FIRST SCHEDULE

(Rules 3, 5, 8, 9, 10, 14, 16, 17, 19, 21 and 26)

LIST OF FORMS

1. Notice of Claim (rules 3, 4, 5, 6, 8 and 29).
2. Notice of Admission, Defence or Counterclaim (rules 4, 5, 6, 7, 9 and 26).
3. Certificate of Service (rule 5).
4. Application to Set Aside Award given in default of Defence or in the Absence of a Party (rules 8 and 11).
5. Notice of Hearing (rule 9).
6. Application to Restore Dismissed Claim (rule 11).
7. Form of Award or Dismissal of Claim (rule 14).
8. Particulars of Award and Dismissal of Claim (rules 16 and 26).
9. Warrant of Distress (rules 17 and 26).
10. Notice of Appeal (rules 19 and 26).
11. Notice of withdrawal of appeal (rule 19).
12. Summons to a Witness (rule 21).

Form 1

NOTICE OF CLAIM

(Rules 3, 4, 5, 6, 8 and 26)

In the Small Claims Court at

Case No.

Between:

1. Claimant

Name in full

Residential address

Business and postal address

2.

Name in full

Residential address

Business and postal address

DETAILS OF YOUR CLAIM

3. Amount of money claimed or what is claimed

.....

4. Nature of the claim

5. Details of Documents in support of the claim

(attached copies)

1.

2.

3.

Signature

Date

NOTE TO DEFENDANT

Judgement may be obtained against you and may be enforced without further notice unless within 14 days of the service of this Notice of Claim, inclusive of the day of service, you complete and file with this court the attached Notice of Admission, Defence or Counterclaim, stating your defence and counterclaim, if any or admission of the claim.

Dated this day of 19.....

(Court seal or stamp)

Clerk of the Court

Form 2

NOTICE OF ADMISSION, DEFENCE OR COUNTER-CLAIM

(Rules 4, 5, 6, 7, 9 and 26)

In the Small Claims Court at

Case No.

Between:

1. Claimant

Name in full

Residential address

Business and postal address

2.

Name in full

Residential address

Business and postal address

I.

The above named defendant

1. ADMIT the Claimant's Claim

2. DISPUTE the Claimant's Claim for the following reasons

3. Have a Counterclaim against the Claimant for the sum of K
.... for (State
nature of Counterclaim

Signature

Date

N.B. Delete what is inappropriate

Form 3

CERTIFICATE OF SERVICE

(Rule 5)

In the Small Claims Court at .

Case No.

Between:

1. Claimant

Name in full

Residential address

Business and postal address

2. Defendant

Residential address

.

Business and postal address

I certify that I personally did serve upon the defendant on the day
of 19.....the

Notice of Claim.

Court Messenger

Form 4

APPLICATION TO SET ASIDE AWARD

(Rules 8 and 11)

In the Small Claims Court at

Case No.

Between:

1. (Claimant)

and

2. (Defendant)

To: The Clerk of the Court

The Claimant

Take Notice that I apply to the Court that the award which was made against me for failure to file any defence/in my absence at the hearing be set aside on the following grounds:

1.

2.

Take further Notice that my application will be heard on the day of 19 at Dated the day of 19

Signed: Defendant

N.B. Delete what is inappropriate

Form 5

NOTICE OF HEARING

In the Small Claims Court at

Case No.

Between:

1. (Claimant)

and

2. (Defendant)

to both Parties

Take Notice that this case will be heard on the
day of 19 at hours and
that if you do not attend the time and place above mentioned, such order will be
made as the Court thinks just.

Dated the day of 19

Clerk of the Court

Form 6

APPLICATION TO RESTORE DISMISSED CLAIM

(Rule 11)

In the Small Claims Court at

Case No.

Between:

1. (Claimant)

and

2. (Defendant)

To: The Clerk of the Court

The Defendant

Take Notice that I apply to the Court that my claim which was dismissed at the hearing due to my absence be re-opened on the following grounds:

1.

2.

TAKE FURTHER NOTICE that my application will be heard on the day of 19 at (place)

Dated the day of 19.....

Signed: Claimant

Form 7

FORM OF AWARD OR DISMISSAL OF CLAIM

(Rule 14)

In the Small Claims Court at

Case No.

Between:

1. (Claimant)

and

2. (Defendant)

My decision, after considering what has been said, is as follows:

1. That the claim be dismissed for the following reasons:

(a)

(b) etc.

2. That the award be made against the Defendant for the amount of
..... kwacha for the following reasons:

(a)

(b)

Arbitrator

NOTE TO DEFENDANT

The award of this Court once entered in the Register may be enforced against you by the Court issuing a Warrant of Distress authorising the Court Messenger or Sheriff of Zambia or his officers to seize your goods and auction them.

(As amended by Act No. 13 of 1994)

Form 8

PARTICULARS OF THE AWARD AND OF DISMISSAL OF CLAIM

(Rules 16 and 26)

In the Small Claims Court at

Case No.

Between:

1. (Claimant)

and

2. (Defendant)

To: The Registrar of the High Court

I, the Clerk of the Court at the above Station, give you particulars of the decision of the Court in this case given on the day of the by

Name of Arbitrator

as follows:

1. The claim was dismissed for the following reasons:

(a)

(b)

2. The defendant was ordered to pay the sum of K by:

(i) Instalments of K each, the last of which is to be paid on the .day of 19

(ii) One lump sum to be paid by the day of19.....

3. The Court ordered restitution of the property to be made by the day of 19

4. The Court ordered specific performance of the contract, such performance to be done by the day of 19

Dated the day of 19

Clerk of the Court

Form 9

WARRANT OF DISTRESS

(Rules 17 and 26)

In the Small claims Court at

Case No.

Between:

1. (Claimant)

and

2. (Defendant)

To: The Court Messenger/Sheriff of Zambia

WHEREAS ofwas on the day of 19 ordered by this Court to pay the sum of K to the claimant by the day of 19..... and has not made such payment as ordered:

You are hereby ordered to seize and sell, without delay, the property of the said person to the extent of obtaining thereby the sum of K , being the amount due from him at this date under the said order to pay, together with the sum of K , being the fee of execution of this warrant showing the sum received for each article by such sale, to this court, to be dealt with according to law.

If, before or during such sale, the amount which is or remains due from the said person as aforesaid is paid to you, the sale shall not be proceeded with.

The following forms of property shall not be sold:

- (a) personal clothing, beds and bedding and household utensils for the use of the owner and his family;
(b) implements of husbandry and tools of the trade of the owner;
(c) foodstuffs required for the feeding of the owner and his dependants;
(d) any property claimed by a third party or in which a third party has an interest.

Dated the day of 19

Clerk of the Court

ENDORSEMENT OF EXECUTION ON NON-EXECUTION

This warrant was executed by me on the day
of 19.....at (place)
and a list of articles sold and amounts received thereby is attached.

Dated the day
of 19

Court Messenger/Sheriff

(ON SUBSEQUENT EXECUTION)

This warrant was executed by me the .day
of 19 at (place)

Dated the .day of19.....

Court Messenger/Sheriff

(ON REVERSE SIDE)

ENDORSEMENTS

If property to be sold is outside the area of jurisdiction of the authorised officer within whose area of jurisdiction the issuing court is situated, endorsement by authorised officer.

(Date stamp)

Signed

Clerk of the Court

Endorsed by the Small Claims Court within whose area of jurisdiction the Warrant of Distress is to be executed.

(Date stamp)

Clerk of the Court

Form 10

NOTICE OF APPEAL

In the Small Claims Court at

Case No.

Between:

1. (Claimant)

and

2. (Defendant)

Take Notice that I, being dissatisfied with the dismissal of my claim/award against me given on the day of 19 appeal to the High Court on the following grounds:

- 1. ;
2. etc.

Dated the. day of 19

Signed

Claimant/Defendant

To: The Registrar of the High Court

Filed at this day of 19

Registrar of the High Court

Form 11

NOTICE OF WITHDRAWAL OF APPEAL

(Rule 19)

In the Small Claims Court at

Case No.

Between:

1. (Claimant)

and

2. (Defendant)

To: The Registrar of the High Court

Clerk of the Court

Defendant/Claimant

Take Notice that I have
withdrawn my appeal against the dismissal of my claim/the award filed on the
day of 19

Dated the day of 19

Signed

Claimant/Defendant

Form 12

SUMMONS TO A WITNESS

(Rule 21)

In the Small Claims Court at

Case No.

Between:

1. (Claimant)

and

2. Defendant)

To: of

You are commanded in the name of the President to attend in person before this Court at on the day of 19 and so from day to day till the above case is to be tried, to testify all that you know in the said case on behalf of the Claimant/Defendant at the instance of the Court.

Dated the day of 19

Clerk of the Court

SECOND SCHEDULE

(Rule 20)

FEES

	Fee units	
1. On a claim	5	
2. On a counterclaim	5	
3. On an application to re-open a claim	10	
4. On an application to set aside an award	10	
5. On filing a Notice of Appeal	5	
6. On filing a Notice of Withdrawal of Appeal	3	
7. On issuing a Warrant of Distress	5	
8. On issuing Summons to Witness	3	

(As amended by Act No. 13 of 1994)

REPUBLIC OF ZAMBIA

THE HUMAN RIGHTS COMMISSION ACT

CHAPTER 48 OF THE LAWS OF ZAMBIA

CHAPTER 48 THE HUMAN RIGHTS COMMISSION ACTCHAPTER 48

THE HUMAN RIGHTS COMMISSION ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

THE HUMAN RIGHTS COMMISSION

3. Extent of Commission's autonomy
4. Seal of Commission

5. Composition of Commission
6. Oath on appointment
7. Tenure of office and vacancy
8. Filling of casual vacancy
9. Functions of Commission
10. Powers of Commission
11. Complaints
12. Sittings of the Commission to be public
13. Recommendation by Commission
14. Proceedings of Commission
15. Committees
16. Disclosure of interest
17. Prohibition of disclosure of information to unauthorised persons

PART III

DIRECTORATE OF THE COMMISSION

18. Director, Deputy Director and other staff
19. Prohibition of disclosure of information by staff to unauthorised persons
20. Immunity of Commissioners and staff
21. Offences

PART IV

FINANCIAL AND OTHER PROVISIONS

Section

22. Funds of Commission
23. Financial year
24. Accounts
25. Annual report
26. Rules
27. Regulations

SCHEDULE

FORM 1-OATH OF HUMAN RIGHTS COMMISSION

FORM 2-OATH OF SECRETARY OR STAFF OF COMMISSION

CHAPTER 48

HUMAN RIGHTS COMMISSION

An Act to provide for the functions and powers of the Human Rights Commission; to provide for its composition and to provide for matters connected with or incidental to the foregoing.

[12th December, 1996Act
39 of 1996
Statutory Instrument
34 of 1997

PART I

PRELIMINARY

1. This Act may be cited as the Human Rights Commission Act.Short title

2. In this Act unless the context otherwise requires- Interpretation

"appropriate authority" means the authority to whom a recommendation is made by the Commission under section thirteen;

"appointed date" means such date as the President may appoint under section one;

"Chairperson" means the person appointed as Chairperson under section five;

"Commission" means the Human Rights Commission established under the Constitution;

"Commissioner" means a person appointed Commissioner under section five;

"Deputy Director" means a person appointed as Deputy Director under section eighteen;

"Director" means the person appointed as Director under section eighteen;

"Secretary" means the Secretary to the Commission referred to in section eighteen;

"Staff" means the staff of the Commission appointed under section eighteen; and

"Vice-Chairperson" means the person appointed as Vice- Chairperson under section five.

PART II

THE HUMAN RIGHTS COMMISSION

3. The Commission shall not, in the performance of its duties, be subject to the direction or control of any person or authority. Extent of Commission's autonomy

4. (1) The seal of the Commission shall be such device as may be determined by the Commission and shall be kept by the Secretary. Seal of Commission

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and any other person authorised in that behalf by a resolution of the Commission.

(3) Any document purporting to be under the seal of the Commission or issued on behalf of the Commission shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

5. (1) The Commission shall consist of the following Commissioners: Composition of Commission

(a) the Chairperson;

(b) the Vice-Chairperson; and

(c) not more than five other Commissioners.

(2) The Commissioners shall be appointed by the President, subject to ratification by the National Assembly.

(3) The Chairperson and Vice-Chairperson shall be persons who have held, or are qualified to hold, high judicial office.

6. (1) Every Commissioner shall, on appointment affirm or take an oath in Form I as set out in Part I of the Schedule, and such oath shall be administered by the President. Oath on appointment

(2) The Secretary and other members of staff shall on appointment, affirm or take an oath in Form 2 as set out in Part II of the Schedule and such oath shall be administered by a Commissioner for Oaths.

7. (1) A Commissioner referred to in subsection (1) of section five shall be appointed for a term not exceeding three years, subject to renewal: Tenure of office and vacancy

Provided that the first Commissioners shall be appointed for periods ranging from one to three years in order to facilitate retirement by rotation.

(2) A Commissioner may be removed from office for inability to perform the functions of the Commissioner's office, whether arising from infirmity of body or mind, incompetence or for misbehaviour.

(3) A Commissioner may resign upon giving one month's notice in writing to the President.

(4) The office of a Commissioner shall become vacant-

(a) if the Commissioner is absent without reasonable excuse from three consecutive meetings of the Commission of which the Commissioner has had notice;

(b) if the Commissioner is a declared bankrupt; or

(c) upon the Commissioner's death.

8. If the office of a Commissioner becomes vacant before the expiry of the term of office, the President, may, subject to ratification by the National Assembly, appoint another person to be a Commissioner, for the unexpired term, in place of the Commissioner who vacates the office. Filling of casual vacancy

9. The functions of the Commission shall be to- Functions of Commission

(a) investigate human rights violations;

(b) investigate any maladministration of justice;

(c) propose effective measures to prevent human rights abuse;

(d) visit prisons and places of detention or related facilities with a view to assessing and inspecting conditions of the persons held in such places and make recommendations to redress existing problems;

(e) establish a continuing programme of research, education, information and rehabilitation of victims of human rights abuse to enhance the respect for and protection of human rights;

(f) do all such things as are incidental or conducive to the attainment of the functions of the Commission.

10. (1) The Commission shall have powers to investigate any human rights abuses- Powers of Commission

(a) on its own initiative; or

(b) on receipt of a complaint or allegation under this Act by-

(i) an aggrieved person acting in such person's own interest;

(ii) an association acting in the interest of its members;

(iii) a person acting on behalf of an aggrieved person; or

(iv) a person acting on behalf of and in the interest of a group or class of persons.

(2) The Commission shall have powers to-

(a) issue summons or orders requiring the attendance of any authority before the Commission and the production of any document or record relevant to any investigation by the Commission;

(b) question any person in respect of any subject matter under investigation before the Commission;

(c) require any person to disclose any information within such person's knowledge relevant to any investigation by the Commission; and

(d) recommend the punishment of any officer found by the Commission to have perpetrated an abuse of human rights.

(3) A witness summoned under subsection (2), shall be examined under oath and such oath shall be administered by the Chairperson.

(4) Subject to subsection 5, the Commission may where it considers it necessary recommend-

(a) the release of a person from detention;

(b) the payment of compensation to a victim of human rights abuse, or to such victim's family;

(c) that an aggrieved person seek redress in a court of law: or

(d) such other action as it considers necessary to remedy the infringement of a right.

(5) Notwithstanding subsection 4, the Commission shall not have powers where a matter is pending before a court.

11. (1) A complaint or allegation referred to in paragraph (b) of subsection (1) of section ten may be made orally or in writing and shall be addressed to the Secretary who shall, in the case of an oral complaint or allegation, reduce the same to writing. Complaints

(2) Every complaint or allegation shall-

(a) be signed or thumb-printed by the person making it; and

(b) bear the complainant's name and address.

(3) A complaint or allegation shall not be received by the Commission unless it is made within a period of two years from the date on which the facts giving rise to any such complaint or allegation become known to the person making the complaint or the allegation.

(4) The Commission may refuse to conduct, or may decide to discontinue an investigation where it is satisfied that the complaint or allegation is malicious, frivolous, vexatious or the particulars accompanying it are insufficient to allow a proper investigation to be conducted, and shall indicate accordingly in the report.

(5) The Commission shall, in any case in which it decides not to conduct an investigation, or decides to discontinue an investigation inform the complainant in writing accordingly, and give reasons therefor.

(6) The Commission may in any inquiry make such orders and give such directions as it may consider necessary for the purpose of conducting any investigation.

12. The Commission shall- Sittings of the Commission to be public

(a) conduct all its sittings in public:

Provided that the Commission may hold its sittings in camera when the

Commission considers it necessary; and

(b) make all its reports in respect of such sittings public.

13. (1) The Commission shall-Recommendation by Commission

(a) send written reports of its findings to the parties concerned; and

(b) dependant on the findings made, make such recommendation as it considers necessary to the appropriate authority.

(2) The appropriate authority shall, within thirty days from the date of such recommendation make a report to the Commission, on any action taken by such authority to redress any human rights violation.

(3) Any person who contravenes the provisions of subsection (2) shall be guilty of an offence, and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units, or to imprisonment for a term not exceeding three years, or to both.

(4) For the purposes of subsection (3), where an offence is committed by-

(a) a body corporate, every director or similar officer of the body shall be guilty of the offence;

(b) a partnership, every partner shall be guilty of the offence; and

(c) a public authority, the officer or officers charged with the responsibility of acting on a recommendation and making a report on such recommendation shall be guilty of the offence.

(5) A person shall not be guilty of an offence under subsection (3) if such person proves to the satisfaction of the court that-

(a) the act constituting the offence was done without the knowledge, consent or connivance of such person; or

(b) such person attempted to prevent the commission of the offence having regard to all the circumstances of the case.

14. (1) Subject to the other provisions of this Act, the Commission may regulate its own procedure.Proceedings of Commission

(2) The Commission shall meet for the transaction of business at least once every three months at such places and times as the Chairperson may determine.

(3) The Chairperson may at any time call a meeting of the Commission and shall call a special meeting to be held within fourteen days of receipt of a written request addressed to the Chairperson by at least four other Commissioners.

(4) If the urgency of any particular matter does not permit the giving of such notice as is required under subsection (3), a special meeting may be called by the Chairperson, upon giving a shorter notice.

(5) The Chairperson or Vice-Chairperson with four other Commissioners shall constitute a quorum at any meeting of the Commission.

(6) There shall preside any meeting of the Commission-

(a) the Chairperson;

(b) in the absence of the Chairperson the Vice-Chairperson; or

(c) in the absence of both the Chairperson and the Vice-Chairperson, such other Commissioner as the Commissioners present may elect for the purpose of that meeting.

(7) A decision of the Commission on any question shall be by a majority of the Commissioners present and voting at the meeting and, in the event of an equality of votes, the Chairperson presiding at the meeting shall have a casting vote, in addition to such Chairperson's deliberative vote.

(8) The Commission may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of the meeting of the Commission, but such person shall have no vote.

(9) The validity of any proceedings, acts or decisions of the Commission shall not be affected by any vacancy in the membership of the Commission or by any defect in the appointment of any Commissioner by reason that any person not entitled to do so, took part in the proceedings.

15. (1) The Commission may, for the purpose of performing its functions under this Act, establish such committees as it considers necessary, and delegate to any of those committees such of its functions as it considers fit. Committees

(2) Subject to subsection (1), the Commission may appoint as members of a committee, persons who are, or are not, Commissioners except that at least one member of a Committee shall be a Commissioner.

(3) A person serving as a member of a committee shall hold office for such period as the Commission may determine.

(4) Subject to any specific or general direction of the Commission, a committee may regulate its own procedure.

16. (1) If any person is present at a meeting of the Commission or any committee at which any matter is the subject of consideration and which matter that person or that person's spouse is directly or indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Commission or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter. Disclosure of interest

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence, and shall be liable, upon conviction, to a fine not exceeding five thousand penalty units.

17. (1) A person shall not without the consent in writing given by, or on behalf of the Commission, publish or disclose to any person otherwise than in the course of such person's duties, the contents of any documents,

communication, or information which relates to, and which has come to such person's knowledge in the course of such person's duties under this Act. Prohibition of disclosure of information to unauthorised persons

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence, and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(3) if any person having information which to such person's knowledge has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates any such information to any other person, such person shall be guilty of an offence, and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

PART III

THE DIRECTORATE OF THE COMMISSION

18. (1) The Commission shall appoint a Director and a Deputy Director of the Commission. Director, Deputy Director and other staff

(2) The Director shall be-

(a) the Secretary to the Commission;

(b) responsible for the management and administration of the Commission;

(c) a qualified advocate;

(d) a full-time officer; and

(e) responsible for the implementation of any matters referred to such Director by the Commission.

(3) The Commission may appoint, on such terms and conditions as it may determine, such other staff as it may consider necessary for the performance of its functions under this Act.

(4) The Public Service Regulations shall apply to the staff appointed by the Commission.

(5) The Commission may engage the services of such advisors and experts as it thinks necessary.

19. Section seventeen shall apply, with the necessary modifications, to the staff. Prohibition of disclosure of information by staff to unauthorised persons

20. (1) No proceedings, civil, or criminal, shall lie against any Commissioner or the staff, for anything done in the exercise of such person's functions under this Act. Immunity of Commissioners and staff

(2) Subject to the provisions of this Act, a Commissioner or a staff member shall not be called to give evidence before any court or tribunal in respect of anything coming to such person's knowledge in the exercise of such person's functions under this Act.

(3) For the avoidance of any doubts, nothing in this section shall protect any Commissioner or the staff, for anything done outside the functions of such person's office.

21. (1) A person who-Offences

(a) is a witness before the Commission and without lawful excuse refuses to be sworn or affirmed, or having been sworn or affirmed refuses to answer fully and satisfactorily any question lawfully put to such person;

(b) gives false testimony in any material particular to any matter under investigation;

(c) insults, interrupts or otherwise obstructs any Commissioner or any member of staff in the performance of such person's functions under this Act; or

(d) disobeys any order made under this Act;

shall be guilty of an offence, and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units, or to imprisonment for a term not exceeding three years, or to both.

PART IV

FINANCIAL AND OTHER PROVISIONS

22. (1) The funds of the Commission shall consist of such moneys as may-Funds of Commission

(a) be appropriated by Parliament for the purposes of this Act;

(b) be paid to the Commission by way of grants or donations; and

(c) vest in or accrue to the Commission.

(2) The Commission may subject to the approval of the a President-

(a) accept money by way of grants or donations from any source; and

(b) raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions.

(3) There shall be paid from the funds of the Commission-

(a) the salaries, allowances, pensions and loans of the Commissioners and staff;

(b) such reasonable travelling, transport and subsistence allowances for the Commissioners and members of any committee of the Commission, when engaged in the business of the Commission; and

(c) any other expenses incurred by the Commission in the performance of its functions.

(4) A person summoned as a witness under this Act, may on the order of the Commission be paid such allowances as may be prescribed by the Commission.

23. The financial year of the Commission shall be the period of twelve months ending on 31st December in each year. Financial year

24. (1) The Commission shall cause to be kept proper books of account and other records relating to its accounts. Accounts

(2) The accounts of the Commission shall be audited annually by independent auditors appointed by the Commission.

(3) The auditors' fees shall be paid by the Commission.

25. (1) As soon as is practicable, but not later than ninety days after the end of the financial year, the Commission shall submit to the President a report concerning its activities during the financial year. Annual report

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Commission and there shall be appended to the report-

(a) an audited balance sheet;

(b) an audited statement of income and expenditure; and

(c) such other information as the President may require.

(3) The President shall not later than seven days after the first sining of the National Assembly next after receipt of the report referred to in subsection (1), lay the report before the National Assembly.

26. The Commission may, by statutory instrument, make rules for the-Rules

(a) appointment, including the power to confirm appointments of persons, to any office in respect of which it is charged with responsibility under this Act;

(b) disciplinary control of persons holding or acting in such offices;

(c) termination of appointments and the removal of such persons from office;

(d) practice and procedure of the Commission in the exercise, of its functions under this Act; and

(e) delegation of its functions or powers.

27. The Commission may, by statutory instrument, make regulations for the better carrying out of the purposes of this Act. Regulations

SCHEDULE

Form 1

PART I

(Section (6) (1))

OATH OF HUMAN RIGHTS COMMISSION

I, having been appointed as Chairperson/
Commissioner of the Human Rights Commission will, discharge the functions of the
office of Chairperson/Commissioner of the Human Rights Commission and that I
will not, directly or indirectly, reveal any matters relating to such functions
to any unauthorised persons or otherwise than in the course of duty.

SO HELP ME GOD

Sworn/Affirmed before me this day of
.....

19.....

President

Form 2

PART II
(Section (6) (2))

OATH OF SECRETARY OR STAFF OF COMMISSION

I, having been appointed to exercise
the functions of Secretary of the Commission/a member of the staff of the
Commission, do swear/affirm that I will not, directly or indirectly, reveal to
any unauthorised person or otherwise than in the course of duty the contents or
any part of the contents of any document, communication or information
whatsoever which may come to my knowledge in the course of my duties as such.

SO HELP ME GOD

Sworn/Affirmed before me this day of

19

Commissioner for Oaths

REPUBLIC OF ZAMBIA

THE ZAMBIA INSTITUTE OF ADVANCED LEGAL
EDUCATION ACT

CHAPTER 49 OF THE LAWS OF ZAMBIA

CHAPTER 49 THE ZAMBIA INSTITUTE OF ADVANCED LEGAL EDUCATION ACTCHAPTER 49

THE ZAMBIA INSTITUTE OF ADVANCED LEGAL
EDUCATION ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

THE COUNCIL OF THE ZAMBIA INSTITUTE OF ADVANCED LEGAL EDUCATION

3. Establishment of Council of the Zambia Institute of Advanced Legal
Education

4. Functions of Council
5. Composition of Council
6. Tenure of Office
7. Seal of Council
8. Filling of casual vacancy
9. Proceedings of Council
10. Committees of Council
11. Disclosure of interest
12. Prohibition of publication or disclosure of information to unauthorised
persons

PART III

ZAMBIA INSTITUTE OF ADVANCED LEGAL EDUCATION

13. Constitution of Zambia Institute of Advanced Legal Education

14. Director and Deputy Director of Institute
15. Secretary and other staff
16. Prohibition and publication or disclosure of information to unauthorised persons

PART IV

FINANCIAL PROVISIONS

Section

17. Funds of Council
18. Financial year
19. Accounts
20. Annual report

PART V

MISCELLANEOUS

21. Savings and transitional provisions
22. Transfer of staff
23. Regulations
24. Repeal of sections seven to ten Cap. 30

CHAPTER 49

ZAMBIA INSTITUTE OF ADVANCED LEGAL EDUCATION Act No.
10 of 1996
37 of 1996

An Act to establish the Zambia Institute of Advanced Legal Education; to constitute the Council of the Zambia Institute of Advanced Legal Education; to define the functions of the Council of the Zambia Institute of Advanced Legal Education; to repeal sections seven to ten of the Legal Practitioners Act; and provide for matters connected to or incidental to the foregoing.

[1st April, 1996]

PART I

PRELIMINARY

1. This Act may be cited as the Zambia Institute of Advanced Legal Education

Act.Short title

2. In this Act, unless the context otherwise requires-Interpretation

"Chairperson" means the person appointed under section five;

"Council" means the Council of the Zambia Institute of Advanced Legal Education;

"Director" means the person appointed under section fourteen;

"former Council" means the Council of Legal Education established under the Legal Practitioners Act;Cap. 30

"Institute" means the Zambia Institute of Advanced Legal Education;

"Secretary" means the person appointed under section fifteen;

"Vice-Chairperson" means the person appointed under section five.

PART II

THE COUNCIL OF THE ZAMBIA INSTITUTE OF ADVANCED LEGAL EDUCATION

3. There is hereby established the Council of the Zambia Institute of Advanced Legal Education, which shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and shall, subject to the provisions of this Act, have power to do all such acts and things as a body corporate may by law do or perform.Establishment of Council of the Zambia Institute of Advanced Legal Education

4. (1) The functions of the Council shall be to provide national, regional and international legal post-graduate studies and training in legislative drafting.Functions of Council

(2) Without prejudice to the generality of subsection (1), the functions of the Council shall be to-

(a) set minimum educational entry qualifications of persons seeking enrolment as students of the Institute;

(b) provide minimum educational qualifications for students who wish to be admitted to the legal bar;

(c) provide training in legislative drafting;

(d) keep a register of all enrolled students;

(e) approve qualifications of students with law degrees equivalent to the law degree offered at any university in Zambia for purposes of admission;

(f) approve qualifications of foreign students who wish to be enrolled in the Institute, and who come from countries that have reciprocal arrangements with Zambia;

(g) set and hold examinations for candidates for admission as legal practitioners;

- (h) provide post-graduate judicial training for Magistrates and Judges;
- (i) encourage international co-operation in post-graduate legal and legislative drafting studies provided by the Council;
- (j) provide such post-graduate courses of legal studies and set and hold examinations in such courses as the Council may think necessary;
- (k) prepare and publish a syllabus of courses of study essential for purposes of any examination set and held by the Council;
- (l) issue certificates to persons who are successful candidates of examinations conducted by the Council; and
- (m) do all such things connected with or incidental to the foregoing.

5. (1) The Council shall consist of the following members:Composition of Council

- (a) the Attorney-General, with the Solicitor-General as an alternate member;
- (b) a Judge appointed by the Chief Justice;
- (c) the Director of Public Prosecutions;
- (d) the Chief Parliamentary Draftsman;
- (e) the Director of the Law Development Commission;
- (f) a representative of the School of Law of a public university;
- (g) one representative of the Law Association of Zambia;
- (h) the Clerk of the National Assembly;
- (i) two Legal Practitioners appointed;
- (j) a person from any country in Southern or Eastern Africa; and
- (k) the Director.

(2) The Chairperson shall be the Attorney-General.

(3) The Vice-Chairperson shall be appointed by the Minister from amongst the members.

(4) The members, other than the member referred to in paragraph (b) of subsection (1), shall be appointed by the Minister.

(As amended by Act No. 37 of 1996)

6. (1) A member referred to in paragraph (b), (f), (h), (i) and (j) of section five shall hold office for a period of three years from the date of his appointment and shall be eligible for re-appointment for a further period of three years.Tenure of Office

(2) A member referred to in paragraph (1) may resign upon giving one month's notice in writing to the organisation that nominated him and to the Minister.

(3) The Minister may remove a member-

(a) if the member is absent without reasonable excuse from three consecutive meetings of the Council of which he has had notice;

(b) on ceasing to hold office which the member occupies or on ceasing to be a representative of the organisation which nominated him; or

(c) if he is declared bankrupt.

7. (1) The seal of the Council shall be such device as may be determined by the Council and shall be kept by the Secretary. Seal of Council

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Secretary or one other person authorised in that behalf by a resolution of the Council.

(3) Any document purporting to be a document under the seal of the Council or issued on behalf of the Council shall be received in evidence and shall be executed or issued, as the case may be, without further proof, unless the contrary is proved.

8. Subject to section six, whenever the office of a member becomes vacant before the expiry of the term of office, the Minister, may appoint another person to be a member in place of the member who vacates the office. Filling of casual vacancy

9. (1) Subject to the other provisions of this Act, the Council may regulate its own procedure. Proceedings of Council

(2) The Council shall meet for the transaction of business, at least once in every three months at such places and at such times as the Chairperson may decide.

(3) Upon giving notice of not less than fourteen days, a meeting of the Council may be called by the Chairperson and shall be called if not less than one third of the members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.

(4) The quorum at any meeting of the council shall be five.

(5) There shall preside at any meeting of the Council-

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson;

(c) in the absence of the Chairperson and the Vice-Chairperson, such member as the members present may elect from amongst themselves for the purpose of that meeting.

(6) A decision of the Council on any question shall be by the majority of the

members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(7) The Council may invite any person, whose presence in its opinion is desirable, to attend and to participate in the deliberations of a meeting of the Council but such person shall have no vote.

(8) The validity of any proceedings, act or decision of the Council shall not be affected by any vacancy in the membership of the Council or by any defect in the appointment of any member or by reason that any person not entitled so to do took part in the proceedings.

(9) The Council shall cause minutes to be kept of the proceedings of every meeting of the Council and every meeting of any committee established by the Council.

10. (1) The council may, for the purpose of performing its functions under this Act, establish committees and delegate to any such committee such of its functions as it thinks fit. Committees of Council

(2) The Council may appoint as members of a committee established under subsection (1), persons who are or are not members of the Council and such persons shall hold office for such period as the Council may determine.

(3) Subject to any specific or general direction of the Council, any committee established under subsection (1), may regulate its own procedure.

11. (1) If a member is present at a meeting of the Council or any committee of the Council at which any matter is the subject of consideration and in which matter the member or a member's spouse is directly or indirectly interested in a private capacity, he shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Council otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter. Disclosure of interest

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

12. (1) A member of the Council shall not without the consent in writing given by, or on behalf of the Council, publish or disclose to any person, otherwise than in the course of his duties, the contents of any documents, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of his duties under this Act. Prohibition of publication or disclosure of information to unauthorised persons

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable, upon conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(3) If any person having any information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any other person he shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term not exceeding three years or to both.

PART III

ZAMBIA INSTITUTE OF ADVANCED LEGAL EDUCATION

13. There is hereby constituted the Zambia Institute of Advanced Legal Education which shall be the centre for the provision of post-graduate legal studies and training in legislative drafting. Constitution of Zambia Institute of Advanced Legal Education

14. (1) The Council shall appoint the Director of the Institute who shall exercise powers and perform such duties as the Council may delegate to him. Director and Deputy Director

(2) The Council shall appoint the Deputy Director of the Institute, who shall assist the Director in performing his duties under this Act.

15. (1) There shall be a Secretary of the Council appointed by the Council on such terms and conditions as the Council may determine. Secretary and other staff

(2) The other staff of the Institute shall be appointed by the Council on such terms and conditions as the Council may determine.

16. The provisions of section twelve shall apply with the necessary modification to the staff of the Institute. Prohibition of publication or disclosure of information to unauthorised persons

PART IV

FINANCIAL PROVISIONS

17. (1) The funds of the Council shall consist of such moneys as may-Funds of Council

(a) be appropriated by Parliament for the purposes of the Council;

(b) be paid to the Council by way of fees, levy, grants or donations; or

(c) vest in or accrue to the Council.

(2) The Council may-

(a) subject to the approval of the Minister, accept moneys by way of donations from any source;

(b) subject to the approval of the Minister, raise by way of loans or otherwise, such moneys as it may require for the discharge of its functions; and

(c) charge and collect fees in respect of programmes, seminars, consultancy services and other services provided by the Council.

(3) There shall be paid from the funds of the Council-

(a) the salaries, allowances and loans of the staff of the Council;

(b) such reasonable travelling, transport and subsistence allowances for members of the Council and any committee of the Council when engaged in the business of the Council, at such rates as the Council may determine; and

(c) any other expenses incurred by the Council in the performance of its functions.

(4) The Council may invest in such manner as it thinks fit such of its funds as it does not immediately require for the performance of its functions.

18. The financial year of the Council shall be the period of twelve months ending on the 31st December of every year. Financial year

19. (1) The council shall cause to be kept proper books of account and other records relating to its accounts. Accounts

(2) The accounts of the Council shall be audited annually by independent auditors appointed by the Council with the approval of the Minister.

(3) The auditors' fees shall be paid by the Council.

20. (1) As soon as practicable, but not later than six months after the expiry of each financial year, the Council shall submit to the Minister a report concerning its activities during such financial year. Annual report

(2) The report referred to in subsection (1) shall include a statement on the financial affairs of the Council and there shall be appended to the report-

(a) an audited balance sheet;

(b) an audited statement of income and expenditure; and

(c) such other information as the Minister may require.

(3) The Minister shall, not later than thirty days after the first sitting of the National Assembly next after receipt of the report referred to in subsection (1), lay it before the National Assembly.

PART V

MISCELLANEOUS

21. (1) Subject to the other provisions of this Act, a person who immediately before the commencement of this Act, held office as a member of the former Council shall on the commencement of this Act, hold office as a member of the Council for a period of three months. Savings and transitional provisions

(2) After the period referred to in subsection (1) the members shall be appointed in accordance with this Act.

(3) Nothing in this Act affects the rights or liabilities of any person employed by the former Council immediately before the commencement of this Act.

(4) On the commencement of this Act, all property, assets, rights, liabilities and obligations of the former Council shall vest in the Council established by this Act.

(5) Any proceedings or cause of action instituted or pending by or against the former Council immediately prior to the commencement of this Act, shall continue as if instituted under this Act.

22. (1) The employees of the former council shall be deemed to have been transferred to the Council from the commencement of this Act. Transfer of staff

(2) The service of the employees referred to in subsection (1) shall be treated as continued service.

23. The Minister may, by statutory instrument, make Regulations for the better carrying out of the purposes of this Act. Regulations

24. Section seven to ten of the Legal Practitioners Act are hereby repealed. Repeal of sections seven to ten of Cap. 30
Cap. 30