

# THE CONSTITUTIONAL COURT

## INTRODUCTION

The Constitutional Court was established under Act number 2 of the Constitution of Zambia. Following the establishment of the Constitutional Court, Act Number 8 of 2016 was enacted which provides for the process and procedure of the Court. The Rules of the Court have also been passed. The Court became operational for the purpose of hearing and determining cases in May 2016.

## CONSTITUTION OF THE COURT

- The Court is presided over by the President of the Constitutional Court. In the absence of the President of the Constitutional Court, the Deputy President presides over the Court.
- When determining a matter, the Court is constituted by an uneven number of not less than three Judges.
- When hearing an interlocutory matter, it is constituted by a single Judge of the Court.
- The full bench of the Court is constituted by an uneven number of not less than five (5) Judges
- Although the establishment is for 13 Judges, currently, 6 Judges have been appointed.

## JURISDICTION OF THE COURT

Article 128 of the Constitution gives the Court its jurisdiction as follows;

- To hear matters relating to the interpretation of the Constitution.
- To hear matters relating to a violation or contravention of the Constitution.
- To hear petitions to challenge the nomination of a candidate for election as Republican President.
- To hear matters relating to the Republican President, Vice President or the election of a Republican President.
- To hear appeals relating to the election of Members of Parliament and Councillors.
- To hear applications to review a decision of the Electoral Commission of Zambia in the delimitation of Constituencies and wards.
- Determine a matter referred to the Court by the Republican President under the Constitution.
- Determine whether or not a matter falls within the jurisdiction of the Court.
- Determine appeals from a Tribunal.
- Determine any other matter as may be conferred upon it by or under the Constitution or any other written law.

## SITTINGS OF THE COURT

- The sittings of the Court are held at Lusaka but may be held at such other place in accordance with the circuit schedule.

## WHO MAY INSTITUTE A COMPLAINT

- A person acting on behalf of another person who cannot act in their own name.
- A person acting as a member of, or in the interest of a group or class of persons.
- A person acting in the public interest.
- An association acting in the interest of one or more of its members.
- The Public Protector.

## MODE OF COMMENCEMENT OF ACTION IN THE CONSTITUTIONAL COURT

- Petition.
- Originating summons.
- Originating Notice of motion.

## WHAT MATTERS ARE EXCLUDED FROM THE JURISDICTION OF THE COURT

- Matters that are not of a Constitutional and Human Rights nature.

## LEGAL REPRESENTATION

- The parties to a matter before the Constitutional Court may appear in person or be represented and appear by a Legal Practitioner.

## FRIEND OF THE COURT

- The Court may allow a person with expertise in a particular matter to appear as a friend of the Court.
- Permission to appear as a friend of the Court may be granted to a person on application or in writing.
- The Court may, on its own motion, request a person with expertise to appear as a friend of the Court in a matter before it.

## WITNESSES

- The Court may, in any suit or matter, that it exercises original jurisdiction;
  - Summon a person to give evidence or produce a document in that person's possession or power.
  - Examine a person as a witness and require the person to produce any document in that person's possession or power.

## DECISIONS OF THE COURT

- The decision of the Court in any matter is final and is not appealable to the Supreme Court or to any other Court whether in exercise of its original or appellant jurisdiction.

## REGISTRAR AND OFFICERS OF THE COURT

- The Registrar and other officers are responsible for the day to day administration of the Registry.
- The Registrar may perform such other functions as the Chief Justice prescribes or as are directed by a special order of the Court.

## REGISTRY

- The Registry of the Court is at Lusaka High Court.

This brochure is presented to provide information about the Constitutional Court of Zambia, and we hope you will find this information useful. If you have questions that this brochure does not answer, you may wish to visit us at:

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Republic of Zambia

# JUDICIARY

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