

THE JUDICIARY OF ZAMBIA



LOCAL COURTS

SIMPLIFIED COURT PROCESSES AND PROCEDURES



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FOREWORD

The Judiciary is one of the three arms of Government mandated to interpret the law and administer justice. It is created under Part VIII of the Constitution of Zambia and it is headed by the Chief Justice. The Court system consists of four superior courts namely: the Supreme Court and the Constitutional Court which rank equivalently; the Court of Appeal and the High Court. The other Courts are the Subordinate Courts, the Small Claims Courts, the Local Courts and those that may be prescribed.

In a continued effort to improve service delivery and to effectively and efficiently administer justice in a timely and impartial manner, the Judiciary has developed simplified court procedures in this service charter for the benefit of its clients (court users and the general public). The Charter is not intended to be exhaustive but highlights the significant aspects in the practice and procedure of the Court.

The Service Charter has been made possible through the collaborative input of the Judiciary and Transparency International Zambia. It is hoped that the public will find this Charter helpful.

Hon. Mr. Justice Michael Musonda, SC
Acting Chief Justice of the Republic of Zambia

2021

ACKNOWLEDGEMENTS

In the preparation of the material contained in this Service Charter, care has been taken to present the information in accordance with the law and practice in the Court as at the time of publication. It gives an insight of the services the Court offers, as well as the practice and procedure. To enhance access to justice, the material in this Charter has been simplified for the benefit of Court users and especially members of the public.

We would like to take this opportunity to express our special gratitude to Transparency International Zambia for their technical and financial support in designing and printing this charter. We are grateful for this collaboration and their commitment in the fight against corruption and promoting integrity in public institutions. We commend Transparency International Zambia for their efforts and urge them to continue.

Additionally, we would like to thank the Honourable Judges who took time from their busy schedule in reviewing and validating this Charter.

We wish to thank, in a special way, the untiring efforts and contributions made by the Committee constituted for the purpose of refining and scrutinizing this Charter which drew members from the Judiciary Integrity Committee, Advisory Committee on Public Relations and Information and others from within the Judiciary.

We must reiterate that this is one of the several efforts that the Judiciary has embarked on in its quest to administer transparent and accountable justice.

Hon. Mr. Justice Jones Chinyama
**Judge of the Supreme Court and Chairperson - Advisory Committee on
Public Relations and Information of the Judiciary of Zambia**

2021

BACKGROUND INFORMATION

The Local Courts are established under Article 120 (1) (c) of the Constitution. They are created under Section 4(1) of the Local Courts Act, Chapter 29 of the Laws of Zambia to administer African customary law applicable to a matter before it in so far as such law (the African customary law) is not repugnant to natural justice or morality or incompatible with any written law. The Local Courts are classified into two categories, Grade A and Grade B and hear and determine civil and minor criminal cases.

They ordinarily exercise jurisdiction (power) only within the area in which the court is situated. They are in all districts and chiefdoms and are easily accessible by the public.

SERVICES OFFERED AT THE LOCAL COURT REGISTRIES

The Registries are open to members of the public from Monday to Friday between 09:00 - 13:00 hours and between 14:00 - 16:00 hours. The services offered include:

- Receiving and attending to Court users and guiding them on filing of claims and other Court processes;
- Filing of documents;
- Issuing receipts once there is proof of payment for fees and fines;
- Keeping of Court files; and
- Commissioning and certification of documents (by authorized officers, that is, the Provincial Local Courts Officers and the Local Courts Officers).

JURISDICTION OF LOCAL COURTS

Local Courts are graded (classified) as either Grade A or Grade B. The powers exercised by a Local Court are in accordance with its Grade. The Courts have jurisdiction to administer:

- (a) African Customary Law (which is not against natural justice, morality or the written law)
- (b) By-laws and regulations within the area of jurisdiction (examples are public nuisance, littering, street vending, etc)
- (c) Written law specified under the Local Courts Act or any other written law (examples are minor assaults, prostitution, etc).

The Local Courts are presided over by Local Court Magistrates who rank as follows:

<i>Rank of Local Court Magistrate</i>	<i>Jurisdiction (Grade of Court)</i>
Principal Presiding Local Court Magistrate	Grade "A"
Senior Presiding Local Court Magistrate	Grade "A"
Senior Local Court Magistrate	Grade "A"
Presiding Local Court Magistrate	Grade "B"
Local Court Magistrate	Grade "B"

Note 1:
 In the absence of a Presiding Local Court Magistrate, a Local Court Magistrate sitting alone may constitute a Court.

Note 2:
 Authorized Officers (Provincial Local Courts Officers and Local Courts Officers) have powers to review cases in the Local Court and to commission and certify documents as commissioners for oaths.

COMMON CIVIL CASES THAT ARE HEARD IN THE LOCAL COURTS

Civil Cases that are heard by the Local Courts, include but not limited to:

- divorce;
- defamation of character;
- damage to virginity;
- elopement;
- adultery;
- simple/small debts.
- appointment of administrators for estates of a limited value.

Note 3:

The power to appoint an administrator does not extend to distribution of the assets/property of the deceased.

Note 4:

Local Courts have limited jurisdiction in criminal matters and that power is only exercised as expressly conferred by written law.

CASES IN WHICH THE LOCAL COURT HAS NO JURISDICTION

The Local Court has no jurisdiction over the following cases:

- written law (except those specifically provided)
- civil cases (e.g. Maintenance for children born outside marriage; Marriages under the Act (popularly known as ‘Civic Centre Marriages’)).
- serious criminal cases (e.g. murder, manslaughter, defilement), etc.

LEGAL REPRESENTATION

Lawyers are not allowed to appear on behalf of any party to the case in the Local Court. However, a plaintiff or a defendant is free to consult lawyers on the law and court procedures.

COMMENCEMENT AND PROCEDURE IN THE LOCAL COURT

- The first stage is where the plaintiff (an aggrieved person) decides to go to the nearest Local Court for settling a dispute; he/she explains to the Court Registrar or Court Clerk what the complaint is all about. The Court Registrar or Court Clerk assesses the complaint to determine whether the Local Court has jurisdiction (power to hear the case).
- If the Court Registrar or Court Clerk is satisfied that the complaint is within the Local Court's jurisdiction, he/she advises the plaintiff to sue (to buy summons).
- If the complaint is beyond the Local Court's jurisdiction, the Court Clerk advises the plaintiff to sue in the appropriate court.
- After the Court Registrar or Court Clerk has advised the plaintiff to sue, a summons is issued to the defendant (the person the plaintiff is complaining against). A summons is a form where the complaint (statement of claim) is written.
- The plaintiff pays a summons fee for issuing the summons. After the plaintiff pays the summons fee (by depositing at the bank and bringing a deposit slip or by paying cash where there are no banking facilities), the court issues him/her a GRZ general receipt.

SERVICE OF SUMMONS

- When the summons is issued, a date of hearing is set within 7 working days. A messenger of the local court whose duty is to serve summons is allowed to serve and render a report of service (a report indicating whether the defendant has received the summons or not).
- If the summons is supposed to go outside the court's jurisdiction, it is supposed to be signed by the authorized officer of the issuing court and equally signed by the receiving court before the summons is served.

- After the judgment, a losing party is made to pay hearing fees and costs, if any.
- No conduct fee is paid to a Court Messenger except for cost of service of summons.
- The conduct fee is money that the plaintiff pays to a defendant when the defendant is unable to meet their own travel cost to court and forms part of the costs incurred by the plaintiff.

ADMISSION OF CLAIM

Where a defendant agrees or accepts the plaintiff's claim, he/she may:

- fill out a consent form (known as consent to judgment);
- undertake to pay into court the claimed sum plus costs of serving the said summons; and
- pay the hearing fee on a specified date.

Note 5:

- There is no admission of claim allowed in matrimonial cases and other complicated cases.
- Where the defendant admits the claim, a consent judgment form is filled in by both parties with the help of the Court Clerk and signed by the Magistrate. All that remains now is fulfillment of the judgment. If the judgment is not fulfilled, the defendant commits contempt of court.

HEARING OF CASE AND JUDGMENT

- When a summons has been served on the defendant (meaning the summons has been successfully delivered), the two parties (plaintiff and defendant), appear before the court on the appointed date of hearing together with their witnesses if any.

- If both parties are present, the claim (complaint) is read out to the defendant who will either deny or admit the claim.
- When the defendant denies the claim, the case is set for hearing and witnesses are called, if any.
- Thereafter, the court delivers its judgment and the parties have a right of appeal.

COMPENSATION MONEY

Compensation money is paid by the losing party to the successful party in the presence of the trial Magistrate. The payment should be recorded in the compensation register.

Note 6:

An officer of the Court is **not** allowed to receive compensation money on behalf of the litigants.

ENFORCEMENT OF JUDGMENTS/ORDERS

Judgments/Orders of the Local Court are enforced, among others, by way of:

- warrant of distress (a court document (writ) which allows authorized officers to seize property);
- warrant of arrest (a document which authorizes the arrest and detention of an individual);
- fines (the amount of money that the court orders to be paid as a penalty);
- issuing of contempt of court summons.

APPEAL PROCESS

- Where the judgment is delivered by the Local Court Magistrate(s), the appeal goes to the Magistrate Court (Subordinate Court).

- The appeal should be made within thirty (30) days from the date of judgment.
- When thirty (30) days has expired, the person appealing can apply for leave to appeal out of time.

Note 7:

The plaintiff or defendant to the case has the right to appeal. Appeals from the Local Court go to the Subordinate Court. However, some appeals go straight to the High Court if the Subordinate Court has no jurisdiction. An example is where a case relating to intestacy has been reviewed by an authorized officer.

STAY OF EXECUTION (STOPPING PERFORMANCE OF A JUDGMENT)

- When a person has appealed, he or she can apply to stay execution of the judgment.
- The Court may grant a stay of execution of the Judgment or not.
- Where a person has not applied for stay of execution of judgment, the judgment will be executed even if they have appealed.
- Court fees are not paid for application for stay of execution of judgment except for fees that relate to the appeal process.

CONTEMPT OF COURT

- Contempt of court is a process by which a person who is alleged to have refused or neglected to comply with a court order or makes comments or does something affecting the integrity of the court, is required by the court to give cause why he/she should not be punished.
- In the Local Court, contempt of court usually arises in two forms:
 - 1) failing to obey Court orders (instructions); and
 - 2) ignoring court summons.

FEES PAYABLE IN THE LOCAL COURT

	FEE Units	Amount (kwacha)
1. For the issue of summons to defendant in civil cases on application by party thereto	28	8.40
2. For the issue of summons to a witness in a civil case on application by a party thereto	28	8.40
3. As hearing fee in respect of civil case	83	25.00 <p style="margin: 0;">(payable by losing party)</p>
4. (a) On issuing of warrant to distress	139	42.00
(b) On execution of warrant of distress	139	42.00
5. On entering an appeal		
(a) Filing notice of appeal	56	17.00
(b) Preparation of the record	222	67.00
6. For each copy of any record of a case supplied for other than official use	6	2.00 <p style="margin: 0;">(per page or part thereof)</p>
7. For issue of divorce certificate to parties to a customary law marriage	278	83.40
8. For appointment of administrator to administer estate of deceased person	167	50.10
9. For swearing of affidavit	57	17
10. For issuing of a marriage certificate to customary marriage	56	17.00

NOTE: The fees payable in the Local Court are stipulated in fee units. To arrive at the amount payable, a conversion rate of 30 ngwee (Statutory Instrument No. 41 of 2015) for each fee unit is used.

Note 8:

Fees payable to Courts that are near banking facilities must be deposited directly in the Local Court bank account by the parties before a GRZ receipt can be issued to them. Parties must obtain court bank details from the court before depositing the money.

HOW CORRUPTION CAN BE AVOIDED AT THE LOCAL COURTS

- 1) Members of the public should follow the law and court procedures and rules to obtain a service and should desist from offering bribes in order to speed up their cases or acquire an order, ruling or judgment in their favour.
- 2) Members of the public should seek services only from prescribed officers and offices and not in the streets, court corridors, car parks, etc.
- 3) Members of the public should familiarize themselves with the prescribed fees and should demand official Government receipts for any payments at Court.
- 4) Any suspected exorbitant fees should be reported to supervising officers at the court.
- 5) All cases of suspected corruption should be reported to relevant authorities.
- 6) When in doubt as to any Court order or procedure, the Court Clerk should be immediately contacted.
- 7) Court officials should at all times work professionally in accordance with the Code of Conduct and Ethics.

COMPOSITION OF THE AD HOC COMMITTEE MEMBERS

The ad hoc committee that compiled this Charter comprised the following members:

- 1) Mr. Rodgers K. Kaoma – Registrar, Supreme Court
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THE JUDICIARY OF ZAMBIA

Vision: To provide timely and accessible justice to all.

Mission: To adjudicate civil, criminal and constitutional matters in an independent, impartial and timely manner without fear or favour.

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TRANSPARENCY INTERNATIONAL ZAMBIA

Vision: A Zambia anchored on citizens and institutions of integrity.

Mission: A leading anticorruption crusader contributing to the development of a Zambian society based on a culture of transparency and accountability through the promotion of good governance and zero tolerance to corruption.

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