

Zambia

## Local Courts Act, 1966

### Chapter 29

Legislation as at 31 December 1996

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Act 18 of 2003, Act 16 of 2008.

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## Local Courts Act, 1966 (Chapter 29)

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# Zambia

## Local Courts Act, 1966

### Chapter 29

Commenced on 1 October 1966

*[This is the version of this document as it was at 31 December 1996 to 11 December 2003.]*

*[This legislation has been revised and consolidated by the Ministry of Legal Affairs of the Government of the Republic of Zambia. This version is up-to-date as at 31st December 1996.]*

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

**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.**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the Local Courts Act.

#### 2. Interpretation

(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, matri-monial 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;

- (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. 281](#); [Cap. 53](#); [Cap. 28](#); [Cap. 1](#)]*

### **3. Appointment of officers**

- (1) The Commission may appoint a Director of Local Courts, a Deputy Director of Local Courts and such number of local courts officers as it may consider necessary for the purposes of this Act.
- (2) The Director of Local Courts, the Deputy Director of Local Courts and local courts officers shall exercise such powers and perform such duties as are conferred or imposed upon them by or under the provisions of this Act.

*[As amended by Acts No. 21 of 1976 and No. 8 of 1991]*

## **Part II – Recognition, etc., of local courts**

### **4. Recognition or establishment of local courts**

- (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.
- (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. Grades of local courts**

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

Provided that no local court shall be given jurisdiction—

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

*[As amended by Acts No. 8 of 1991 and No. 13 of 1994]*

### **6. Constitution of local courts and appointment of members**

- (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:

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. Sessions

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](#)]*

## Part III – Jurisdiction, etc., of local courts

### 8. Civil jurisdiction of local courts

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

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

*[As amended by No. 21 of 1976]*

### 9. Criminal jurisdiction of local courts

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

### 10. Preservation of jurisdiction

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

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

*[Cap. 281]*

## 11. Cases excluded from jurisdiction

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

## 12. Law to be administered

- (1) Subject to the provisions of this Act, a local court shall administer—
- (a) the African customary law applicable to any matter before it in so far as such law is not repugnant to natural justice or morality or incompatible with the provisions of any written law;
  - (b) the provisions of all by-laws and regulations made under the provisions of the Local Government Act and in force in the area of jurisdiction of such local court; and
- [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:

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. Enforcement of specified laws

The Minister may, by statutory order, confer upon all or any local courts jurisdiction to administer all or any of the provisions of any written law specified in such order, and may, subject to the limits referred to in 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.

## Part IV – Procedure, etc., of local courts

## 14. Practice and procedure

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

## 15. Parties to appear in person

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

- (a) by-laws and regulations made under the provisions of the Local Government Act; or
- [Cap. 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. Copies of records, etc.

- (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.
- (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. Issue of summons

- (1) A local court shall have power to summon before such court any person who—
  - (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. Warrant of arrest

- (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—
  - (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. Execution of orders, etc., of other courts**

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.

## **20. Disposal of persons arrested**

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.

## **21. Bail**

- (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.
- (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. Additional conditions of bail bonds**

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.

## **23. Release from custody**

- (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.

- (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. Amount of bail and deposits**

- (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.
- (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. Power to order sufficient bail when that first taken is insufficient**

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.

#### **26. Discharge of sureties**

- (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.
- (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. Death of surety**

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.

#### **28. Person bound by recognizance absconding may be committed**

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.

#### **29. Forfeiture of recognizance**

- (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.
- (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. Appeal from and revision of orders**

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.

### **31. Power to issue search warrant**

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.

### **32. Execution of search warrant**

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.

### **33. Persons in charge of closed place to allow ingress thereto and egress therefrom**

- (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.
- (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. Detention of property seized**

- (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.
- (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. Awards in civil cases

- (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—
- (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. 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

- (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.
- (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—
  - (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.

*[Cap. 59]*

*[As amended by Acts No. 8 of 1991 and No. 13 of 1994]*

### **37. Powers and duties of administrators appointed by local courts**

- (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.
- (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. Transfer of applications for orders relating to intestate estates to High Court**

- (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—
  - (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. Orders in criminal cases**

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—

- (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. Sentences in cases of conviction for several offences at one trial**

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.

**41. Committal to Subordinate Court for sentence**

- (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.

- (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. Fines

- (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:

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:

Amount of fine in penalty units	Maximum period of imprisonment in default
Not exceeding 8	14 days
Exceeding 8 but not exceeding 40	1 month
Exceeding 40 but not exceeding 80	3 months
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. Corporal punishment

- (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.

- (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. Compensation

- (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.
- (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. Suspended sentences

- (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.

- (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. Payment of fines and compensation**

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:

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. Contempt of court**

- (1) Any person subject to the jurisdiction of a local court, who, without lawful excuse—
- (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. Corrupt influence**

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](#)]*

#### **49. Corrupt practice**

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](#)]*

## 50. Adjudication without authority

- (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.

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. Interpretation

In this Part, unless the context otherwise requires—

"**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. Reports on cases

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.

### 53. Transfer of cases

- (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.

- (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. Powers of inspection and revision

- (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.
- (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 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. Powers of Director

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](#)]

## 56. Appeals

- (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.

- (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. Powers on appeal

- (1) Any court exercising appellate jurisdiction under the provisions of this Act may exercise any of the following powers:
  - (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. Effect of entry of appeal on order, sentence, etc.**

- (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.
- (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. Procedure in transferred cases**

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.

### **61. Use of assessors**

- (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:

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. Decisions to be in accordance substantial justice**

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.

**63. Local court justices to be subject to directions of High Court**

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.

**Part VII – General****64. Officers of local courts**

- (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.
- (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. Indemnities**

- (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.
- (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. Disposal of exhibits**

- (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.
- (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. Places of imprisonment

- (1) The \*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

- (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:

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.

*[Cap. 97]*

## 68. Rules

- (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—
- (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. Detention and imprisonment rules**

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.

## **70. \*\*\***

*[Obsolete]*

## **71. \*\*\***

*[Has had its effect]*