

Zambia

Judiciary Administration Act, 2016

Act 23 of 2016

Legislation as at 10 June 2016

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Judiciary Administration Act, 2016 (Act 23 of 2016)

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Judiciary Administration Act, 2016

Act 23 of 2016

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An Act to revise the law relating to the administration of the Judiciary; make provision for the appointment of judicial officers and staff of the Judiciary; repeal and replace the Judicature Administration Act, 1994; and provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia.

Part I – Preliminary provisions

1. Short title

This Act may be cited as the Judiciary Administration Act, 2016.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Commission**” means the Judicial Service Commission established in Article 220 of the Constitution;

[Cap. 1]

“**Chief Administrator**” means the Chief Administrator of the Judiciary appointed pursuant to Article 146 of the Constitution;

[Cap. 1]

“**Chief Registrar**” means the Chief Registrar of the Judiciary appointed under section seven;

“**court**” does not include a courtmartial;

“**court fees**” means any fees, commissions or charges payable under any law in connection with the lodgement, service, execution or administrative processing of any writ, application or other legal process, and includes sheriff fees and any commission, late fees or other charges so payable;

“**court martial**” has the meaning assigned to it in the Defence Act;

[Cap. 106]

“**emoluments**” has the meaning assigned to it in the Constitution;

[Cap. 1]

“**Emoluments Commission**” means the Emoluments Commission established in Article 232 of the Constitution;

[Cap. 1]

“**higher education institution**” has the meaning assigned to it in the Higher Education Act, 2013;

[Act No. 4 of 2013]

“**Judiciary**” means the superior courts, the subordinate courts, small claims courts, local courts and any other courts established under any written law;

“**Judicial Service**” means the Judicial Service established in Article 219 of the Constitution;

“**judge**” has the meaning assigned to it in the Constitution;

[Cap. 1]

“**judicial officer**” means a person appointed under section seven;

“**judicial staff**” means a person employed in the Judicial Service with power to exercise functions, except judicial authority, as may be conferred by or under this Act, or any other written law;

“**judicial authority**” has the meaning assigned to it in the Constitution;

[Cap. 1]

“**member of the Judiciary**” means

- (a) judge;
- (b) judicial officer; and
- (c) an officer with power to hold or exercise, in open court, the judicial powers of a court;

“**practitioner**” has the meaning assigned to it in the Legal Practitioners Act;

[Cap. 30]

“**Registrar**” means the Registrar of a superior court appointed under section seven; and

“**superior court**” has the meaning assigned to it in the Constitution; and

[Cap. 1]

“**Zambia Qualifications Authority**” means the Zambia Qualifications Authority established under the Zambia Qualifications Authority Act, 2011.

[Act No. 13 of 2011]

Part II – Administration of Judiciary

3. Judicial ranking

- (1) Judges of the superior courts, other than the Chief Justice, Deputy Chief Justice, President of the Constitutional Court and Deputy President of the Constitutional Court, shall rank according to the date on which they were appointed as judges of a superior court.
- (2) Subject to subsection (1), judges who hold equal office shall rank according to the date on which their names were entered on the roll of practitioners kept for the purposes of the Legal Practitioners Act.

[Cap. 30]

4. Establishment of committees

- (1) The Chief Justice may constitute advisory committees, consisting of judges or persons with knowledge of the work of the courts and prevailing social conditions, to advise on matters relating to the Judiciary as the Chief Justice may consider necessary.
- (2) A committee constituted under subsection (1) may, subject to any directions of the Chief Justice, regulate its own procedure, and its members shall hold office on such terms as the Chief Justice may determine.

5. Functions of Chief Administrator

- (1) The Chief Administrator shall—
 - (a) be the chief executive officer of the Judiciary;
 - (b) be responsible to the Chief Justice for the day to day administration of the Judiciary and for the implementation of resolutions of the Commission in respect of the Judicial Service;
 - (c) in relation to the expenditure of the Judiciary, be the controlling officer within the meaning of the Public Finance Act, 2004; and
[Act No. 15 of 2004]
 - (d) perform such other powers and functions as may be conferred by or under this Act, or any other written law.
- (2) The functions of the Chief Administrator shall not extend to any matter assigned by law to a judge or judicial officer.
- (3) A person qualifies for appointment as Chief Administrator if the person—
 - (a) has, as a minimum academic qualification, a degree in public administration, law or other Social Science from a—
 - (i) higher education institution established, declared or registered under the Higher Education Act, 2013; or
[Act No. 4 of 2013]
 - (ii) foreign higher education institution whose qualifications are recognised by the Zambia Qualifications Authority; and
 - (b) has proven knowledge and experience in public administration; and
 - (c) is of high integrity and good character.
- (4) The Chief Administrator shall hold office on such terms and conditions as the Commission may determine.

6. Vacancy in office of Chief Administrator

- (1) The office of Chief Administrator becomes vacant if the Chief Administrator—
 - (a) dies;
 - (b) resigns;
 - (c) retires;
 - (d) is adjudged bankrupt;
 - (e) is convicted of an offence under any written law and is sentenced to imprisonment for a period exceeding six months without the option of a fine;
 - (f) is removed from office by the Commission, for good cause; or
 - (g) becomes mentally or physically incapable of performing the functions of Chief Administrator.

- (2) Where the office of the Chief Administrator is vacant or the Chief Administrator is unable to perform the functions under this Act, the Chief Justice shall, if the vacancy—
 - (a) is temporary, appoint any person, from amongst senior persons employed in the Judicial Service, to perform the functions of the Chief Administrator and inform the Commission accordingly; or
 - (b) relates to the absence of the Chief Administrator for a period of more than thirty days, refer the matter to the Commission for appointment of a person to act in that position.
- (3) A person appointed to act in the position of Chief Administrator shall act in that capacity until the Chief Administrator returns to the office or until such time as the Commission appoints a substantive Chief Administrator.

7. Appointment of judicial officers and other staff

- (1) The Commission shall appoint the following judicial officers:
 - (a) Chief Registrar;
 - (b) Registrar, Deputy Registrar, Assistant Registrar, District Registrar or other like functionary of any court;
 - (c) Master, Deputy Master or Assistant Master of the Supreme Court;
 - (d) Master, Deputy Master or Assistant Master of the Constitutional Court;
 - (e) Chief Resident Magistrate, Principal Resident Magistrate, Senior Resident Magistrate, Resident Magistrate, Magistrate and Clerk of a Subordinate Court;
 - (f) Senior Presiding Magistrate and Presiding Magistrate of a Local Court;
 - (g) Director of Local Courts, Provincial Local Courts Officer and Local Court Officer; and
 - (h) an officer with power to hold or exercise, in open court, the judicial powers of any court.
- (2) A person is qualified for appointment as Chief Registrar if the person—
 - (a) is a practitioner;
 - (b) has proven knowledge and experience in the performance of judicial functions or has served as a research advocate in a superior court; and
 - (c) is of high integrity and good character.
- (3) A person is qualified for appointment as Registrar of a superior court if the person—
 - (a) is a practitioner;
 - (b) has proven knowledge and experience in the performance of judicial functions or has served as a research advocate in a superior court; and
 - (c) is of high integrity and good character.
- (4) A person is qualified for appointment as a magistrate, other than a magistrate or judicial officer of a local court, if the person—
 - (a) has, as a minimum academic qualification, a degree in law from a—
 - (i) higher education institution established, declared or registered under the Higher Education Act, 2013; or
[Act No. 4 of 2013]
 - (ii) foreign higher education institution whose qualifications are recognised by the Zambia Qualifications Authority;

- (b) has high integrity and good character;
- (c) has management skills;
- (d) has proficiency in computer applications; and
- (e) does not have pending complaints before the Disciplinary Committee established under the Legal Practitioners Act in the case of a practitioner.

[Cap. 30]

- (5) The Commission shall appoint such other staff as may be necessary to assist the Chief Administrator in the performance of functions of that office.
- (6) A person appointed under this section shall, subject to this Act, hold office on such terms and conditions as the Commission may determine.

8. Functions of Chief Registrar

- (1) The Chief Registrar shall be assisted by a Registrar of each superior court and such number of Deputy Registrars as the Commission may determine.
- (2) The Chief Registrar shall—
 - (a) facilitate the performance of judicial functions;
 - (b) coordinate judicial matters;
 - (c) synchronise and produce a comprehensive performance report of the judicial functions;
 - (d) provide the link between the Judiciary and the Commission on the appointment, promotion and disciplinary matters of judicial officers;
 - (e) be the Secretary to the Commission; and
 - (f) advise the Government on matters relating to the judicial profession.

9. Suspension or removal of Chief Registrar

- (1) The Commission may suspend or remove the Chief Registrar for—
 - (a) inability to perform the functions of office, whether arising from a mental or physical disability;
 - (b) misbehaviour;
 - (c) incompetence;
 - (d) breach of the code of conduct for judicial officers;
 - (e) bankruptcy; or
 - (f) any other good cause.
- (2) The Commission shall, before suspending or removing the Chief Registrar from office under subsection (1), inform the Chief Registrar of the matter, in writing, and give the Chief Registrar an opportunity to be heard on any ground stated for the intended suspension or removal.

10. Vacancy in office of Chief Registrar

- (1) Where the office of Chief Registrar falls vacant, or if, for any reason, the Chief Registrar is unable to perform the functions of office, the Chief Justice shall appoint a person who is qualified for appointment as a Chief Registrar to perform the functions of the Chief Registrar.

- (2) A person appointed under subsection (1) shall have, and may exercise, the functions of the Chief Registrar subject to such conditions, exceptions or qualification as the Chief Justice may direct in writing.

11. Functions of Registrar

- (1) The Registrar of a superior court shall perform such functions as may be assigned to the Registrar by the Chief Registrar, this Act or any other written law.
- (2) Despite the generality of subsection (1), the Registrar shall—
 - (a) prepare the annual calendar of the court;
 - (b) discharge duties provided for under rules of court;
 - (c) draw court orders or decrees as directed by the court;
 - (d) execute or ensure compliance with court orders;
 - (e) be, and discharge duties of, a taxing master; and
 - (f) supervise duties relating to the court as delegated to any Deputy Registrar.

12. Judicial of Registrar

The Commission shall appoint the following judicial staff:

- (a) research advocates;
- (b) sheriffs;
- (c) such other officers of any court, required for purposes of any written law; and
- (d) court reporters, interpreters and other staff of any court as the Commission may prescribe.

13. Research advocates

A judge of a superior court shall have a research advocate who shall be a practitioner, with at least two years post qualification experience.

14. Oath of office

A judicial officer, the Chief Administrator and such other staff as the Commission may require to do so shall, on first appointment, take an oath or make an affirmation in accordance with the Official Oaths Act.

[Cap. 5]

15. Exercise by commission of disciplinary powers

- (1) The Commission shall exercise its powers with respect to the dismissal, disciplinary action or termination of appointment of a person appointed under this Act in accordance with regulations made by the Commission.
- (2) The Commission shall, at the request of the Chief Administrator, hear the Chief Administrator personally in connection with the exercise, by the Commission, of the powers referred to in this section.

16. Emoluments

The emoluments of a judge, judicial officer and member of staff of the Judiciary shall be determined by the Emoluments Commission, on the recommendation of the Commission.

Part III – Financial Provisions

17. Funds of Judiciary

- (1) The funds of the Judiciary shall consist of such monies as may—
 - (a) be appropriated by Parliament for purposes of the Judiciary;
 - (b) be paid to the Judiciary by way of court fees, grants, gifts, donations or bequests; or
 - (c) vest in or accrue to the Judiciary from investments, fees or levies administered by the Judiciary.
- (2) There shall be paid out of the funds of the Judiciary—
 - (a) the salaries, allowances and loans of members of the Judiciary and the judicial staff;
 - (b) such travelling, transport and subsistence allowances for judges, judicial officers and staff as may be determined by the Emoluments Commission; and
 - (c) any other administrative expenses incurred by members of the Judiciary in the exercise and performance of its powers and functions, other than capital expenditure arising under section twenty-two.

18. Financial year

The financial year of the Judiciary shall be the period of twelve months ending on 31st December in each year.

19. Accounts and audit

- (1) The Chief Administrator shall cause to be kept proper books of account and other records relating to the accounts of the Judiciary.
- (2) The accounts of the Judiciary shall be audited annually by the Auditor General.
- (3) The Auditor-General's fees shall be paid by the Judiciary.

20. Annual report

- (1) As soon as practicable, but not later than six months after the expiry of the financial year, the Chief Administrator shall submit to the National Assembly a report concerning the activities of the Judiciary during that financial year.
- (2) The report referred to in subsection (1) shall include information on the financial affairs of the Judiciary and there shall be appended to the report—
 - (a) an audited statement of financial position of the Judiciary;
 - (b) an audited statement of comprehensive income; and
 - (c) such other information as the National Assembly may require.
- (3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subsection (1), lay the report before the National Assembly.

Part IV – General Provisions

21. Allocation of court work

The Chief Justice shall designate, in respect of each court, a judge or judicial officer who shall be responsible for allocation of the court's professional work.

22. Capital expenditure on property and buildings

The Government shall provide, equip and maintain such courthouses, offices, judges' lodges and other buildings as maybe necessary for the purposes of the Judiciary.

23. Regulations

- (1) The Commission may make regulations for the better carrying out of the provisions of this Act.
- (2) Without limiting the generality of subsection (1), regulations may be made for or with respect to
 - (a) prescribing the qualifications for appointment to a post in the Judicial Service;
 - (b) the procedure to be followed by a committee constituted under section four;
 - (c) confirmation of appointments and promotions to offices in the Judicial Service;
 - (d) the disciplinary control of persons holding or acting in offices in the Judicial Service.
 - (e) the termination of appointments and the removal of persons from office;
 - (f) the transfer or secondment of any person holding any office; and
 - (g) training courses as may be considered necessary for promoting or maintaining efficiency in the Judicial Service.
- (3) Regulations under this section may make different provisions for different categories of officers and may authorise the Commission to delegate any of its powers to the Chief Administrator or a member of staff of the Commission.

24. Repeal of [Cap. 24](#) and transitional arrangements for staff

- (1) The Judicature Administration Act, 1994, is repealed.
- (2) A person who, immediately before the commencement of this Act, was employed, whether on permanent and pensionable establishment or on secondment, as a research advocate, sheriff, court reporter, court interpreter or other officer or functionary in connection with the operation or administration of any court or courts, shall be deemed, on the commencement of this Act, to be a member of the staff of the Judiciary.
- (3) Despite subsection (2), a person who has been seconded to the Judiciary may signify to the Commission, in writing, within a period of three months, the intention to be re-deployed to another Commission.
- (4) Nothing in this section—
 - (a) affects any power of the Commission to employ any person in a temporary position; or
 - (b) precludes the making of arrangements for the secondment or further secondment of an officer to any position.