

GOVERNMENT OF ZAMBIA

ACT

No. 42 of 1994

Date of Assent: 31st December, 1994

An Act to provide for the administration of the courts; to confer on the Judicial Service Commission power to appoint staff of the Judicature; and to provide for matters connected with or incidental to the foregoing.

[31st December, 1994

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Judicature Administration Act, 1994, and shall come into operation on such date as the Minister may, by statutory order, appoint.

Short title and commencement

2. In this Act, unless the context otherwise requires—

Interpretation

" Commission " means the Judicial Service Commission referred to in Article *one hundred and nine* of the Constitution;

Cap. 1

" Chief Administrator " means the Chief Administrator of the Judicature appointed under section *three*;

" court " does not include a court-martial;

" 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's fees and any commission, late fees or other charges so payable;

" Judicature " means the Supreme Court, the High Court, the Industrial Relations Court, the subordinate courts, local courts and any other courts established by an Act of parliament;



" member of the Judicature " means—

- (a) the Chief Justice, Deputy Chief Justice or any judge of the Supreme Court or High Court;
- (b) the Chairman and any Deputy Chairman or member of the Industrial Relations Court;
- (c) a magistrate or local court justice; and
- (d) any officer having power to hold or exercise, in open court, the judicial powers of any court;

" staff of the Judicature " means—

- (a) the Chief Administrator;
- (b) any sheriff or other officer or person appointed under subsection (1) of section *four*, other than a member of the Judicature; and
- (c) any person appointed under subsection (2) of section *four*.

PART II

ADMINISTRATION OF JUDICATURE

Chief
Administra-
tor

3. (1) There shall be a Chief Administrator of the Judicature who shall be appointed by the President on the recommendation of the Commission.

(2) The Chief Administrator—

- (a) shall be responsible for the day-to-day administration of the Judicature and for the implementation of resolutions of the Commission in respect of that administration;
- (b) shall have and may exercise and perform such other powers and functions as may be conferred on him by or under this or any other Act; and
- (c) shall, in relation to the expenditure of the Judicature, be deemed to be the controlling officer within the meaning of the Finance (Control and Management) Act.

Cap. 600

(3) The Chief Administrator shall hold office on such terms and conditions as the Commission may determine with the approval of the President.

Appointment
of certain
members of
Judicature
and its staff

4. (1) The holders of the following offices shall be appointed by the Commission:

- (a) Registrar, Deputy Registrar, Assistant Registrar, District Registrar or other like functionary of any court;
- (b) Master, Deputy Master and Assistant Master of the Supreme Court;
- (c) principal resident magistrate, senior resident magistrate, resident magistrate, magistrate and clerk of a subordinate court;

- (d) Senior Presiding Justice and Presiding Justice of a local court;
- (e) Director of Local Courts, Deputy Director of Local Courts, provincial local courts officer and local courts officer;
- (f) Sheriff, Deputy Sheriff and Assistant Sheriff;
- (g) such other officers of any court, required for the purposes of any written law, as the Commission may, by regulation, prescribe; and
- (h) court reporters, interpreters and such other staff of any court as the Commission may, by regulation, prescribe.

(2) Subject to the approval of the President as to numbers, the Commission shall appoint such other staff as may be necessary to assist the Chief Administrator in the performance of his functions.

(3) A person appointed under this section shall, subject to this Act, hold office on such terms and conditions as the Commission may determine with the approval of the President.

5. (1) In connection with the dismissal, disciplinary action or termination of appointment of any officer holding an office to which the Commission appointed him, the Commission shall exercise its powers in that behalf in accordance with regulations made by the Commission with the approval of the President.

Exercise by
Commission
of its
disciplinary
powers

(2) The Commission shall, at the request of the Chief Administrator, hear him personally in connection with the exercise by the Commission of the powers referred to in this section.

6. (1) The funds of the Judicature shall consist of such moneys as may—

Funds of
Judicature

- (a) be appropriated by Parliament for the purposes of the Judicature;
- (b) be paid to the Judicature by way of court fees or by way of such grants as the Chief Administrator may accept; or
- (c) vest in or accrue to the Judicature.

(2) The Chief Administrator may accept money by way of grants, whether or not subject to conditions, for the benefit of any activity, function, fund or asset of the Judicature or any part thereof.

(3) There shall be paid out of the funds of the Judicature—

- (a) the salaries and allowances of members of the Judicature, in accordance with the Constitutional Offices Emoluments Act, 1985;
- (b) the loans of members of the Judicature;
- (c) the salaries, allowances and loans of the staff of the Judicature;
- (d) such travelling, transport and subsistence allowances for staff of the Judicature as may be determined by the Commission with the approval of the President; and

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of 1985

- (e) any other expenses incurred by the Judicature in the exercise and performance of its powers and functions, other than capital expenditure chargeable to the Government under section *twelve*.
- Financial year of Judicature 7. The financial year of the Judicature shall be the period of twelve months ending on 31st December in each year.
- Accounts of Judicature 8. The Chief Administrator shall cause to be kept proper books of account and other records relating to the accounts of the Judicature which shall be audited by the Auditor-General.
- Annual report of Judicature 9. (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 President a report concerning the activities of the Judicature during that financial year.
- (2) The report shall include information on the financial affairs of the Judicature and there shall be appended to the report—
- (a) audited balance sheets;
- (b) audited statements of income and expenditure; and
- (c) such other information as the President may require.
- (3) The President shall, not later than the end of the first session of the National Assembly that begins after the receipt of the report, cause it to be laid before the National Assembly.

PART III

MISCELLANEOUS

- Allocation of High Court work 10. The Chief Justice shall designate, in respect of each place where the High Court is held, a judge who shall be responsible for allocation of the court's professional work.
- Judicial precedence 11. (1) Judges of the Supreme Court, other than the Chief Justice and Deputy Chief Justice, shall rank according to the date on which they were appointed as judges of the Court.
- (2) Judges of any other court 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. 48 12. The Government shall provide, equip and maintain such courthouses, offices, judges' lodges and other buildings as may be necessary for the purposes of the Judicature.
- Capital expenditure on property and buildings 13. (1) The Chief Justice may constitute, on a permanent or temporary basis, one or more advisory committees, consisting of judges or others having knowledge of the work of the courts and prevailing social conditions, to advise him on such matters relating to the Judicature as he may from time to time consider necessary.
- Establishment of committees

(2) Any such committee 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.

14. (1) The Commission may, by statutory instrument made with the approval of the President, make regulations for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or expedient to be prescribed for carrying out or giving effect to this Act.

Regulations

(2) Without limiting the generality of subsection (1), regulations under this section may be made for or with respect to—

- (a) the appointment to office, including the power to confirm appointments, of the staff of the Judicature and such of the members of the Judicature as are appointed by the Commission;
- (b) promotions to such offices;
- (c) the disciplinary control of persons holding or acting in such offices;
- (d) the termination of appointments and the removal of such persons from office;
- (e) prescribing the qualifications for appointment or promotion to any post;
- (f) the transfer or secondment of any person holding any such office; and
- (g) such training courses as may be considered necessary for promoting or maintaining efficiency.

(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.

15. Until such time as due appropriation is made for the purposes of section *six*, appropriation and expenditure in respect of the Judicature shall be effected and dealt with in the same manner as before the commencement of this Act.

Funding of
Judicature
pending due
appropriation

16. A person who, immediately before the commencement of this Act, was employed, whether on permanent and pensionable establishment or on secondment, as a 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 Judicature for a period of not more than eighteen months, unless—

Transitional
arrange-
ments for
staff

- (a) the Commission, by notice in writing to the person so employed, determines that he shall not be a member of such staff; or

(b) the person so employed, by notice in writing to the Commission, states his intention not to be a member of such staff.

(2) At any time within the period of eighteen months referred to in subsection (1), the Commission may, under section *four*, appoint any person affected by that subsection as a member of staff of the Judicature.

(3) A person who—

(a) gives or is given a notice under subsection (1); or

(b) at the expiry of the period of eighteen months referred to in subsection (1), has not been appointed under section *four* as a member of staff of the Judicature;

shall be redeployed in the civil service or may, in the public interest, be retired therefrom, with entitlement to be paid all his terminal benefits.

(4) Nothing in this section—

(a) affects any power of the Commission under any law to create, or to employ any person in, a temporary position; or

(b) precludes the making of arrangements for the secondment or further secondment of any officer to any position.

JUDICATURE ADMINISTRATION ACT, 1994

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