

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 48 OF 1995

The Subordinate Courts Act
(Laws, Volume I, Cap. 45)

The Subordinate Courts (Civil Jurisdiction) (Amendment) Rules, 1995

IN EXERCISE of the powers contained in section *fifty-seven* of the Subordinate Courts Act, the following Rules are hereby made:

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| <p>1. (1) These Rules may be cited as the Subordinate Courts (Civil Jurisdiction) (Amendment) Rules, 1995, and shall be read as one with the Subordinate Courts (Civil Jurisdiction) Rules, in these Rules referred to as the principal Rules.</p> | <p>Title and commencement
Cap. 45
p. 28</p> |
| <p>(2) These Rules shall come into force on 14th April, 1995.</p> <p>2. The principal Rules are amended, in order 1, by the revocation of rule 6 and the substitution therefor of the following:</p> <p style="padding-left: 40px;">" 6 All court fees or any other fees payable under these Rules shall be paid by cash, postal order or bank certified cheque. "</p> | <p>Amendment of o.1 r.6</p> <p>Mode of payment of fees</p> |
| <p>3. The principal Rules are amended by the revocation of the Second, Third and Fourth Schedules and the substitution therefor of the Second, Third and Fourth Schedules, respectively, set out in the Appendix.</p> | <p>Revocation and replacement of Second, Third and Fourth Schedules</p> |

APPENDIX
(Paragraph 3)

SECOND SCHEDULE
(o.1, r. 5)

PART I

FEEs

SUMMONS, MOTIONS, ETC.

No.	Item	First Column	Second Column	Third Column
			K	Document to be received
1.	On—(i) any claim not exceeding K3,000		1,500	The filed copy
2.	On a counter-claim (including hearing fee)		3,000	The filed copy
3.	On issue of a judgement summons (including hearing fee and actual committal, if any)		1,500	The filed copy document to be stamped
4.	On entering garnishee proceedings (including hearing fee and entering and issuing judgement or order given or made thereon)		3,000	The filed copy
5.	On application for relief by way of interpleader otherwise than under execution (including hearing entering and issuing judgement or order given or made thereon)		3,000	The filed copy
6.	On application to review order under judgement summons		500	The filed copy
7.	On sealing warrants, commissions in examining witness or other documents		500	The filed copy
8.	On interrogatories—every set		500	The filed copy
9.	On interrogatories—every set of answers to		3,500	The filed copy
10.	On every summons to witness		3,500	The filed copy
11.	On every affidavit filed or deposition used at trial		300	The filed copy
12.	On issuing every order not otherwise provided for		400	The filed copy
13.	On certifying a copy of a document as an office copy		300	The filed copy
14.	On copies of proceedings per page or part thereof		1,500	The filed copy
15.	On taxation of costs		For every K1,500 or Portion of K1,500 allowed K200	The bill
	Maximum		K7,500	
16.	On warrant for prisoners to give evidence		400	The filed copy
17.	On every writ of execution		800	The filed copy
18.	On order of reference under O.XIX		800	The filed copy

<i>No.</i>	<i>First Column Item</i>	<i>Second Column K</i>	<i>Third Column Document to be received</i>
19.	On filing notice of change of solicitor	400	The filed copy
20.	On Commission to take evidence	800	The Commission
21.	On an examination of a witness before the court or an officer of the court: For each hour or part thereof	800	The order
22.	An application (including registration) to register a judgment when no fee provided by the Act providing for registration	800	The certificate of judgment
23.	On personal individual search in a Judgments Register or in the Judgment Section of a Civil Causes Register: For every name	200	The search
24.	On personal general searchers in the Judgments Register or an unspecified number of names in any one calendar year, in any court office	22,500 for a year or part thereof (in cash payable to the Registrar of the High Court)	

PART II

APPEALS

(Including Appeals from Local Courts)
(These fees are payable in cash)

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1. On notice of intention to appeal or application for leave to appeal	800
2. On leave being granted	800
3. On leave being granted	800

PART III

FEES, ETC. ON EXECUTION AND ON SERVICE

(The fees are payable in cash)

1. For an arrest by Sherrifs Officer	1,500
2. For seizure by Sherrif's officer	1,500
3. For travelling allowances to effect arrest or seizure per km	300
4. For man or, when necessary, man in possession, the sum actually and reasonably paid.	
5. For removal of goods or animals to a place of safekeeping when necessary and for warehousing or taking charge of same when removed, the sum actually and reasonably paid.	
6. For advertising and giving publicity to the sale, printing catalogues, bills and notices and distributing and posting same, the sum actually and reasonably paid.	
7. On sale under writ or warrant, 5 per cent of the amount realised or of the amount due under the writ or warrant, whichever is the less.	

K

8. For commission to the auctioneer on sale to include inventory and valuation, compiling catalogue and preparing for sale, 10 per cent of the amount realised or of the amount due under the writ or warrant whichever is the less.
9. Where execution is withdrawn, satisfied or stopped after seizure but before sale, 2.5 per cent of the amount due under the writ or warrant.
10. For commission to the auctioneer where execution is withdrawn, satisfied or stopped after he has been instructed to sell, to include inventory, valuation compiling catalogue and preparing for sale, 5 per cent of the amount due under the writ or warrant.
11. For commission on obtaining possession under writ of possession, 2.5 per cent of gross rateable value.
12. Fee for service of a summons, order, writ or other process of the court by a bailiff or court messenger:
- (1) not more than three kilometres from the office of the bailiff or messenger, as the case may be 800
 - (2) more than three kilometres from such office 800
 - (a) fee 800
 - (b) and actual out-of-pocket expenses (other than subsistence) to be received.
 - (3) In any case where—
 - (a) A Court has directed that service shall be affected by registered letter or advertisement, the provisions herein as to fees, expenses and allowances shall not apply; the cost of the advertisement shall be allowed to the party paying for same;
 - (b) it is apparent that a bailiff or messenger cannot reasonably be expected to effect service and return to his office within a period of twelve hours, the party on whose behalf service is to be effected shall first apply to the court for direction as to the manner in which service is to be carried out.

NOTE: The person at whose instance the above action is instigated shall be liable in the first place for all the above items, subject to any right of recovery against the person in respect of whom they are issued.

THIRD SCHEDULE

(o. l. r. 12)

WITNESS' ALLOWANCES

- (1) The allowance for witnesses shall be as follows:

Class of person	Minimum payable per day	Maximum Payable per day
	K	K
Professional persons, owners, directors or managers of business and expert witness	3,800	7,500
Clerks, artisans and others	2,300	5,300

Provided that the sum payable shall not, unless otherwise ordered by the presiding magistrate, exceed the sum of K3,750 per day if the witness has lost no wages or earnings or other income in attending the proceedings, or the period during which he has been away from home or in respect of which he has lost wages, earnings or other income by reason of his attendance does not exceed four hours.

FOURTH SCHEDULE

(o.1, r.13)

SCALE OF LEGAL PRACTITIONERS' COSTS

	K
When subject matter or sum recovered exceeds Summons, etc.	7,500
1. Preparing writ of summons or counter claim including all particulars annexed or judgment summons and fair copy	3,000
2. Copy to serve	1,500
3. Copy to keep	1,500
4. Preparing request for further particulars of claim or counter-claim and fair copy	1,500
5. Preparing further particulars and fair copy	3,000
6. Copy to service	1,500
7. Copy to keep	1,500
8. Preparing subpoena (one for 4 witnesses) if duces taxum, discretion to Taxing Master to allow higher fee	2,300
9. Copy to service, each witness (if duces taxum, discretion to Taxing Master as under Item 8)	1,500
<i>Notices</i>	
10. Preparing notice to produce or admit facts if necessary long, such additional allowance as Taxing Master shall think proper, page or part thereof	2,300
11. Preparing motion paper or any other necessary notice and fair copy	1,500
12. Preparing notice of discontinuance and fair copy	1,500
13. Preparing notice of appointment to tax and fair copy Summons etc.	1,500
<i>Instructions</i>	
14. To sue or defend in any proceedings	1,500
Minimum	3,000
Maximum	9,800
15. For interrogatories	9,800
16. For affidavit—minimum	2,300
17. For interlocutory application	6,000
18. For trial	30,000

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19. For proof of each witness allowed on taxation	2,300
20. To admit facts or to answer interrogatories	6,000
21. For any pleading other than a reply	5,300
22. For a reply	2,300
<i>Drawing</i>	
23. Admission of facts and fair copy or per page	3,800
24. Interrogatories or answers thereto and fair copy or per page	5,300
25. Affidavit and fair copy or per page	5,300
26. Any pleadings, per page or part thereof	2,300
27. Accounts, statements and other documents when required by court or opposing party per page or part thereof	2,300
28. Any order required by the Court to be drawn	2,300
29. Bill of costs for taxation and fair copy per page	2,300
30. Writ of fieri facias and fair copy	2,300
<i>Copies</i>	
31. Bill of costs per page on file to serve and/or keep	1,500
32. All documents for which no special provision made per page or part thereof	1,500
<i>Attendance</i>	
33. Form to enter summons, judgment summons or motion or to file counter-claim further particulars, answer to interrogatories, admission of acts, affidavit of documents, particulars of claim in inter-pleader proceedings or bespeak copies	1,800
34. On adverse party or his advocate with copy of any such document (Taxing Master to take time and distance into account) Summons, etc.	10,800
35. Issue subpoena or to discontinue action	1,800
36. Apply for costs on receiving notice of discontinuance	2,300
37. Inspect documents or produce same for inspection (per half hour)	5,300
38. Obtain or to give any necessary consent or admission or to swear an affidavit	1,800
39. On hearing summons or of defendant's adjourned application for time for payment of judgment	4,500
40. Interlocutory application	5,300
41. On trial:	
(a) When case adjourned not partly heard	1,800
(b) When judgment given in default without evidence	5,300
(c) In any other case, for first hour each day	7,500
Each hour thereafter	4,500
42. To hear reserved judgment	1,800

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43. To obtain appointment to taxation	1,800
44. To tax bill of costs per half hour	5,300
45. To issue writ of fieri facias	4,500
46. At any other attendance upon the Magistrate or Clerk of Court or upon opposite party, or upon bailiff or court messenger, inter pleader proceedings, not otherwise provided for, or where in consequence of anything done by the opposite party during the progress of the action or matter, it becomes necessary to advise or to receive instructions from a client for each attendance the Taxing Master may deem absolutely necessary and not for purpose which would have been affected any previous or subsequent attendance allows	5,300
47. Letter before action	1,500
48. Letter in lieu of attendance which could be allowed under Item 46	2,300
49. Perusing any necessary document per page or part thereof	2,300
50. Miscellaneous:	
Registration of documents	2,000
Summons, etc.	

Garnishee Proceedings

51. Inclusive sum to cover instructions for summons, instructions for affidavit, drawing affidavit and fair copy attending swearing copy to serve, preparing summons and fair copy and attending to issue summons	11,300
52. For attending to apply for payment out of money paid into court or to obtain judgment or order against the garnishee where the garnishee does not dispute the debt and judgment debtor does not oppose	2,300

NOTE: Any step or attendance not specifically provided for by Item 50 and 51 shall be according to general scale. In exceptional cases or in cases where length of particulars or complexity of subject matter demand, the Taxing Master may allow higher fees.

Travelling Allowances

53. For every day or portion of a day during which in the opinion of the Taxing Master a partitioner is necessarily engaged in travelling from his place of business within Zambia to the place of trial and returning therefrom and for every day which in the opinion of the Taxing Master, a practitioner is necessarily detained at the place of trial, prior to, or subsequent to, the trial, such amount per diem as the Taxing Master may think reasonable not exceeding	11,300
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Travelling Expenses

54. Journeys necessarily undertaken, an allowance for the time necessarily occupied on the journey and, in the case of a journey for the time which, an advocate is necessarily detained at the place of trial. Such sum per diem (including Sundays) as the Taxing Master may think reasonable, but not to exceed per diem	45,000
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NOTE: Disbursements for transport expenses are also to be allowed, but not for normal out-of-pocket expenses for subsistence, etc. The disbursements allowed for travelling by motor car shall be at the rate of K150 per km.

M. M. S. W. NGULUBE,
Chief Justice

LUSAKA
12th April, 1995
[C.1.6/1]

