



GOVERNMENT OF THE REPUBLIC OF ZAMBIA
THE JUDICIARY

THE CONSTITUTION OF ZAMBIA
(Chapter 1 of the Laws of Zambia)

JUDICIARY (CORONAVIRUS) MAY 2020 GUIDELINES

WHEREAS on 11th March 2020 the World Health Organization (WHO) categorized the coronavirus disease (COVID19) as a Pandemic and called on all countries to take urgent and aggressive measures to combat the Pandemic;

WHEREAS in response to the Pandemic, the Government of the Republic of Zambia has taken proactive steps and, in the interest of the public, has announced various national measures to mitigate the Pandemic;

APPRECIATING the urgent need for the Judiciary of Zambia to protect Judges, Judicial Officers, Judicial Staff, Advocates, other court users and the general public;

RECOGNISING the urgent need to adopt measures to guarantee continued access to justice and expeditious disposal of cases in an environment that will minimize the risk of the possible spread of the Pandemic through the judicial system;

PROMOTING the efficient use of available Judicial and administrative resources; and

NOW THEREFORE, pursuant to Article 136(2) (e) of the Constitution Chapter 1 of the Laws of Zambia, the Chief Justice of the Republic of Zambia has issued the following Guidelines in the conduct of Criminal and Civil Cases:

A. APPLICATION AND COMMENCEMENT

These Guidelines shall apply to Superior Courts, Subordinate Courts, Small Claims Courts and Local Courts.

These Guidelines shall apply in addition to the previous Precautionary Measures issued by the Judiciary to mitigate the potential spread of the COVID 19 Pandemic in the Superior Courts, Subordinate Courts, Small Claims Courts and Local Courts. In the event of an inconsistency between these Guidelines and the previous Precautionary Measures, these Guidelines shall prevail to the extent of the inconsistency.

These Guidelines shall come into force on 1st June 2020 and shall apply for a period of ninety (90) days from the date of commencement and may be extended for a further period as the Chief Justice may determine.

The Chief Justice may, from time to time, review these Guidelines considering the prevailing circumstances.

B. CRIMINAL CASES

1. Filing, Enquiries, and other Purposes

1.1. A person shall, when entering court offices or filing documents, adhere to all Regulations and Ministry of Health Guidelines for the time being in force, and cooperate with court staff regarding registration for contact tracing (registration), screening, use of Personal

Protective Equipment (PPE), sanitization, social distancing, and all other necessary health precautions.

2. Cause Listing

- 2.1. A trial court may direct that cases cause-listed in a criminal session, including gaol deliveries and pleas, shall be spread out into sub-cause lists to minimize the number of persons appearing at the same time.
- 2.2. An appellate court may, where necessary, order and direct that the cause list for the hearing of matters in a court session shall be divided into sub-cause lists to assign different dates for cases scheduled to be called on a particular date to minimize the number of persons appearing at the same time.
- 2.3. A Judge or Judicial Officer may direct that cases involving accused persons or appellants who, at the time of hearing, are in custody be heard separately from cases involving accused persons or appellants who prior to the hearing have been released on police bond or bail.

3. Attendance of Court Proceedings

- 3.1 At any time during court proceedings, only a party (accused person / appellant / the State), an advocate representing a party (if any) and a witness in the case being heard at the time shall be allowed in a courtroom.
- 3.2 Except where expressly required by law, such as in a case involving trial of a juvenile, an interested party including a relative or a friend may not be allowed to attend court proceedings.
- 3.3 At any time before or during court proceedings, a Judge or Judicial Officer shall limit the number of people in a courtroom and shall have the power to order any person to exit a courtroom.

- 3.4 Notwithstanding Guideline 3.2 and 3.3, a Judge or Judicial Officer may permit a person whose presence is considered necessary, and in so doing such person shall adhere to all Regulations and Ministry of Health Guidelines for the time being in force.
- 3.5 An Advocate, a witness or other court user in any court proceedings shall cooperate with court officials in adhering to all Regulations and Ministry of Health Guidelines for the time being in force including registration, being subjected to screening for COVID19, use of PPE, sanitization, social distancing and all other necessary health precautions.
- 3.6 A witness in any court proceedings shall immediately after testifying leave the courtroom and the court premises and shall not be allowed to interact with a witness who is yet to testify in a matter.
- 3.7 A court may, where practicable, dispense with the presence of an accused person for offences categorized as misdemeanors.

4. Time Limits

- 4.1. A Judge or Judicial Officer shall exercise control over court proceedings and may, where necessary, limit the time for the conduct of hearings. In the exercise of this control, a Judge or Judicial Officer shall have regard to the following considerations;
- (a) public safety;
 - (b) Regulations and Ministry of Health Guidelines for the time being in force;
 - (c) due process;
 - (d) efficient use of judicial resources; or

- (e) any other consideration a Judge or Judicial Officer may deem appropriate.
- 4.2. An Advocate or a party shall, having regard to public safety and all Regulations and Ministry of Health Guidelines for the time being in force, cooperate with a Judge or Judicial Officer with particular regard to relevance during the examination of a witness and the need for efficient use of judicial resources.
- 4.3. Where a party is called upon to make submissions or oral arguments either by themselves or through their legal representative, on any issue that may arise in the course of proceedings, the time allowed for making arguments shall not exceed 20 minutes.
- 4.4. At the close of trial, a Judge or Judicial Officer may, where practicable, direct that the final submissions shall be made in writing. Where a Judge or Judicial Officer allows a party to make final submissions orally, the time allowed for making submissions shall not exceed 20 minutes for each party. A Judge or Judicial Officer shall, prior to receiving submissions, inform the parties of their time limit.
- 4.5. If a party is represented by more than one advocate, the team of advocates shall nominate one advocate to make the oral submissions. A Judge or Judicial Officer may, for sufficient reason, allow more than one advocate to make oral submissions, provided that the total time allowed for all advocates for making oral submissions on behalf of the same party shall not exceed 20 minutes.

5. Interlocutory Applications

- 5.1. Unless expressly permitted by the court, an interlocutory application in criminal proceedings, including bail, shall be made by, and determined on a documents-only basis without the need for an oral hearing.

5.2. The hearing of an interlocutory application shall, where practicable, be conducted in a courtroom.

6. Delivery of Judgments

6.1. Without prejudice to any provision of the Criminal Procedure Code Chapter 88 of the Laws of Zambia, a court may, when delivering a judgment, dispense with reading the judgment in full but only read the substantive part. Where a Judge or Judicial Officer has exercised this option, the Judge or Judicial Officer shall make available to the parties a copy of the judgment immediately after delivery.

6.2. A Subordinate Court may, where practicable, and in accordance with section 168 (2) of the Criminal Procedure Code Chapter 88 of the Laws of Zambia, dispense with the presence of an accused person when delivering judgment where-

- (a) the accused person was not in custody during trial;
or
- (b) the presence of the accused person was dispensed with during trial and the sentence is a fine.

6.3. An appellate court may, where necessary and appropriate, dispense with the presence of the appellant when delivering a judgment where the appellant is legally represented.

6.4. Where a Judge or Judicial Officer has exercised the option in Guidelines 6.2 and 6.3, the Notice of Judgment shall expressly state that the judgment shall be delivered in the absence of the accused/appellant on the given date and time. The Judge or Judicial Officer shall, immediately after delivery, make available to the parties a copy of the judgment.

C. CIVIL CASES

7. Filing, Enquiries, and other Purposes

7.1. A person shall, when entering court offices or filing documents, adhere to all Regulations and Ministry of Health Guidelines for the time being in force, and cooperate with court staff regarding registration, screening, use of PPE, sanitization, social distancing, and all other necessary health precautions.

8. Notices

8.1. A designated court official may, in addition to the conventional means of effecting service, notify a party of a notice or serve a notice by way of-

- (a) Short Messaging System (SMS);
- (b) WhatsApp Messenger; or
- (c) Electronic mail (E-mail).

8.2. A designated court official shall, immediately upon commencement or institution of a matter, record personal and contact details of each litigant including their physical address and mobile phone number.

9. Cause Listing

9.1. A court shall cause list cases in such a manner that cases scheduled to be heard on a particular date shall be spread out to minimize the number of persons appearing at the same time.

9.2. An appellate court may, where necessary, order and direct that the cause list for the hearing of matters in a court session shall be divided into sub-cause lists to assign different dates for cases scheduled to be called on a particular date.

10. Mode of Hearing

10.1 A Judge or Judicial Officer sitting as a High Court or Subordinate Court may, where appropriate, under Section 8 of the Evidence Act, order that any specified fact at trial be determined on the basis of affidavit evidence without cross examination.

10.2 A Judge or Judicial Officer may, where satisfied that a matter is urgent, issue appropriate directions for the handling of the matter. The court may grant the order sought without a physical hearing of the parties.

10.3 A Judge or Judicial Officer may, where the circumstances of the case permit, direct that an interlocutory or chamber application be determined on a documents-only basis.

11. Video or Audio Hearings

11.1. A Judge or Judicial Officer may direct, where practicable and appropriate, that proceedings be conducted using teleconferencing, videoconferencing, and other appropriate technology. In conducting the proceedings, a Judge or Judicial Officer shall ensure that, as much as possible, the hearing observes the appropriate decorum and in all other respect takes place in a manner expected of a court proceeding.

12. Attendance of Court Proceedings

12.1 At any time during court proceedings, only a party (plaintiff / petitioner / defendant / appellant / respondent), an advocate representing a party (if any) and a witness in a case being heard at the time shall be allowed in a courtroom.

12.2 At any time before or during court proceedings, a Judge or Judicial Officer shall limit the number of people in the

courtroom and shall have the power to order any person to exit the courtroom.

12.3 A Judge or Judicial Officer may permit any other person whose presence is considered necessary to attend court proceedings and such person shall adhere to all Regulations and Ministry of Health Guidelines for the time being in force.

12.4 An Advocate, a witness or other court user in any court proceedings shall cooperate with court officials in adhering to all Regulations and Ministry of Health Guidelines for the time being in force including being subjected to registration, screening for COVID19, the use of PPE, sanitization, social distancing and all other necessary health precautions.

12.5 A witness in any court proceedings shall immediately after testifying leave the courtroom and the court premises and shall not be allowed to interact with another witness who is yet to testify in a matter.

12.6 Where parties are represented, the court may limit the attendance of persons, in chamber applications, to the advocates.

13. Court-annexed Mediation

13.1 A court shall, as much as possible, refer any matter for settlement by Court-annexed mediation to be conducted on the court premises.

13.2 A Mediator and a party shall adhere to all Regulations and Ministry of Health Guidelines for the time being in force including being subjected to registration, screening for COVID19, the use of PPE, sanitization, social distancing, and all other necessary health precautions.

14. Time Limits

14.1.A Judge or Judicial Officer shall, exercise control over court proceedings and may, as far as is reasonably practicable, limit the time for the conduct of hearings. In the exercise of this control, a Judge or Judicial Officer shall have regard to the following considerations:

- (a) public safety;
- (b) Regulations and Ministry of Health Guidelines for the time being in force;
- (c) due process;
- (d) efficient use of judicial resources; or
- (e) any other consideration a Judge or Judicial Officer may deem appropriate.

14.2.An Advocate or a party shall, having regard to public safety and all Regulations and Ministry of Health Guidelines for the time being in force, cooperate with a Judge or Judicial Officer in the conduct of court proceedings with particular regard to relevance during examination of a witness and the need for the efficient use of judicial resources.

14.3.At the close of trial, a Judge or Judicial Officer may, where practicable, direct that the final submissions shall be made in writing. Where a Judge or Judicial Officer allows a party to make final submissions orally, the time allowed for making submissions shall not exceed 20 minutes for each party. A Judge or Judicial Officer shall prior to receiving submissions inform the parties of the time limit.

14.4. If a party is represented by more than one advocate, the team of advocates shall nominate one advocate to make the oral submissions. A Judge or Judicial Officer may,

for sufficient reason, allow more than one advocate to make oral submissions, provided that the total time allowed for all advocates for making oral submissions on behalf of the same party shall not exceed 20 minutes.

15. Delivery of Judgments

15.1. A court may, when delivering a judgment, dispense with reading the judgment in full but only read the substantive part. Where a Judge or Judicial Officer has exercised this option, the Judge or Judicial Officer shall, immediately after delivery, make available to the parties a copy of the judgment.

16. Priority in Civil Cases

16.1 The following matters shall be given priority:

- (a) an application in a case where there is a substantive hearing listed within the month;
- (b) an application in a case listed for trial in the following three months;
- (c) an injunction;
- (d) a stay;
- (e) a maintenance or child-related application; or
- (f) any other matter which a court may consider urgent.

D. SMALL CLAIMS COURT

17. Application to Small Claims Court

17.1. The Guidelines relating to civil cases in Superior Courts shall apply to the Small Claims Court with necessary modifications to suit the circumstances.

E. LOCAL COURTS

18. Application to Local Courts

18.1. Except as expressly provided, the Guidelines relating to Criminal and Civil cases in Superior Courts shall apply

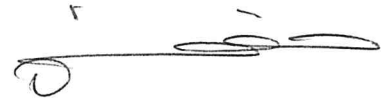
to the Local Court with necessary modifications to suit the circumstances.

- 18.2. A Local Court may, where necessary, be presided by a single Magistrate who shall be supported by one clerk and a messenger.
- 18.3. A designated court official shall, upon commencement or institution of a matter, immediately record personal and contact details of each litigant including their physical address and mobile phone number.
- 18.4. A designated court official may, where practicable, notify or effect service of a notice by way of Short Messaging System (SMS) or WhatsApp Messenger.
- 18.5. At any time during court proceedings, only a party, and a witness in a case being heard at the time shall be allowed in a courtroom.
- 18.6. At any time before or during court proceedings, a court shall limit the number of people in the courtroom and shall have the power to order any person to exit the courtroom.
- 18.7. Notwithstanding Guidelines 18.5 and 18.6, a court may permit any other person whose presence is considered necessary to attend court proceedings and in so doing shall require such person to adhere to all Regulations and Ministry of Health Guidelines for the time being in force.
- 18.8. A witness and other court user in any court proceedings shall cooperate with court officials in adhering to all Regulations and Ministry of Health Guidelines for the time being in force including being subjected to registration, screening for COVID19, the use of PPE,

sanitization, social distancing and all other necessary health precautions.

18.9. A witness in any court proceedings shall immediately after testifying leave the courtroom and the court premises and shall not be allowed to interact with another witness in a matter.

LUSAKA
20th May 2020



I. C. Mambilima
Chief Justice