

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 69 OF 1998

The High Court Act
(Laws, Volume 3, Cap. 27)

The High Court (Amendment) Rules, 1998

IN EXERCISE of the powers contained in sections *forty-four* and *forty-five* of the High Court Act, the following Rules are hereby made:

1. These Rules may be cited as High Court Act (Amendment) Rules, 1998, and shall be read as one with the High Court Rules, in these Rules referred to as the Principal Rules. Title
Cap. 27
2. Order VI of the principal Rules is amended in Rule 1 by the deletion of sub-rules (1) and (2) and the substitution thereof of the following: Amendment
of Order VI
 - (1) Except as otherwise provided by any written law or these Rules every action in the High Court shall be commenced by Writ of Summons endorsed and accompanied by a full statement of claim.
 - (2) Any matter which under any written law or these Rules may be disposed of in chambers shall be commenced by an Originating Summons.
3. Order X of the principal Rules is amended in rule 11 by the deletion of sub-rule (3). Amendment
of Order X
4. Order XI of the principal Rules is amended in rule 1— Amendment
of Order XI
 - (a) by the deletion of the proviso to sub-rule (1) and the substitution thereof of the following:

Provided that no appearance shall be accepted after entry of Judgement in default of appearance;

(b) by the insertion after sub-rule (3) of the following new sub-rule:

(4) Any person served with a writ under Order VI of these rules may enter conditional appearance and apply by Summons to the Court to set aside the writ on grounds that the writ is irregular or that the Court has no jurisdiction.

5. Order XII of the principal Rules is amended—

(a) by the deletion of sub-rules (1) and (3) and the substitution therefore of the following:

(1) where the Writ of Summons is endorsed for a liquidated demand and the defendant fails or all the defendants if more than one fail to appear, the plaintiff may enter final judgment for any sum not exceeding the sum endorsed on the writ together with interest and costs, upon an affidavit or certificate as the case may be, of due service being filed.

(3) Where the writ is endorsed with a claim for pecuniary damages and the defendant fails, or all the defendants if more than one, fail to appear, the plaintiff may enter interlocutory Judgment and a notice of assessment shall issue to assess the value of goods and the damages, or damages only as the case may be, in respect of the causes of action disclosed by the statement of claim:

Provided that the Court or a Judge may order particulars to be filed before any assessment of damages.

(b) by the insertion after sub-rule (9) of the following new sub-rule:

(10) Where the claim is endorsed with a claim for possession of any chattel and the defendant fails, or all the defendants if more than one fail to appear, the plaintiff may sign Judgment against the defendant or defendants so failing to appear for possession of the chattel.

6. The principal Rules are amended by the revocation of Order XIX and the substitution therefore of the following:

Revocation
and
replacement
of Order
XIX

ORDER XIX

ORDERS FOR DIRECTION

1. (1) The Court or trial Judge shall not later than twenty-one days after appearance and defence have been filed, give directions with respect to the following matters:

Order for direction

- (a) reply and defence to counter claim, if any;
- (b) discovery of documents;
- (c) inspection of documents;
- (d) admissions;
- (e) interrogatories; and
- (f) place and mode of trial;

Provided that the period for doing any of these acts shall not exceed fourteen days.

2. Notwithstanding rule 1, the Court may, for sufficient reason, extend the period within which to do any of the acts specified in rule 1.

Extension of time

7. The principal Rules are amended by the revocation of Order XXII and the substitution thereof of the following:

Revocation and replacement of Order XXII

ORDER XXII

SETTLEMENT OF ISSUES

1. (1) At any time before or at the hearing, the Court or a Judge may, if it or he thinks fit, proceed to ascertain and determine what are the material questions in controversy between the parties, and may reduce such questions into writing and settle them in the form of issues, which issues, when settled, may state questions of law on admitted facts or questions of disputed fact, or questions partly of the one kind and partly of the other.

At or before hearing

(2) The Court or a Judge may, if it or he thinks fit, direct the parties to prepare issues, and the same shall be settled by the Court or a Judge.

(3) The issues may be settled, without any previous notice, at any stage of the proceedings at which all the parties are actually present, or at the hearing. If otherwise, notice shall be given to the parties to attend at the settlement of the issue.

(4) At any time before the decision of the case, if it shall appear to the Court necessary for the purpose of determining the real

question or controversy between the parties, the Court may amend the issues or frame additional issues, on such terms as it shall determine.

Amendment
of Order
XXVI

8. Order XXVI of the principal Rules is amended in rule 1 by the deletion of " fifty thousand kwacha " and the substitution therefore of " five hundred thousand kwacha ".

Amendment
of Order
XXXI

9. Order XXXI of the principal Rules is amended—

(a) in rule 3 by the deletion of sub-rule (1) and the substitution therefore of the following:

(1) In order to set down for trial an action commenced by Writ of Summons the party setting it down shall deliver to the proper officer a request that the action may be set down for trial at the place specified in the Order made on the summons for directions, together with two bundles (one for the use of the Judge and the other, which may be a carbon copy, to serve as the record).

(b) by the deletion of rule 13 and the substitution therefore of the following:

Mediation
fee

13. There shall be paid to the mediator in equal proportion by parties to a suit, a mediation fee in accordance with the scale that may be presented by the Chief Justice.

Made by the High Court Rules Committee in Lusaka, this 9th day of June, 1998.

M. M. S. W. NGULUBE,
Chief Justice (Chairman)

M. M. MUNDASHI,
Member

L. NYEMBELE,
Member

I. C. MAMBILIMA,
Member