

GOVERNMENT OF ZAMBIA

ACT

No. 24 of 2016

Date of Assent: 6th June, 2016

An Act to amend the Supreme Court of Zambia Act.

[7th June, 2016

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Supreme Court of Zambia (Amendment) Act, 2016, and shall be read as one with the Supreme Court of Zambia Act, in this Act referred to as the principal Act.

Title
Cap. 25

2. Section *two* of the principal Act is amended by the insertion, in the appropriate place, of the following definition:

Amendment
of section 2

“Court of Appeal” means the Court of Appeal established under Article 130 of the Constitution;.

Cap. 1

3. Section *four* of the principal Act is amended by the deletion of the words “or a final decision in the exercise of its original jurisdiction”.

Amendment
of section 4

4. Section *seven* of the principal Act is amended by the deletion of the words “or original”.

Amendment
of section 7

5. The principal Act is amended by the repeal of section *twelve*.

Repeal of
section 12

6. The principal Act is amended by the repeal of section *fourteen*.

Repeal of
section 14

7. The principal Act is amended by the repeal of section *fifteen* and the substitution therefor of the following:

Repeal and
replacement
of section 15

15. (1) The Court shall allow an appeal against conviction on the following grounds:

Determination
of appeals

(a) the conviction, in all the circumstances of the case, is unsafe or unsatisfactory;

(b) the conviction is based on a wrong decision on a question of law; or

(c) there was a material irregularity in the course of the trial.

(2) Despite subsection (1), where the Court is of the opinion that the point raised in the appeal might be decided in favour of the appellant, the Court may dismiss the appeal if it considers that no miscarriage of justice has actually occurred.

(3) The Court shall, if it allows an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered or, if the interests of justice so require, order a new trial.

(4) The Court may, on an appeal, whether against conviction or sentence, substitute a judgment of guilty for such other offence as the trial court could have entered and, in the case of an appeal from a judgment of the Court of Appeal, the Court shall, in addition, have power to restore the conviction of the trial court.

(5) The Court may, on an appeal, whether against conviction or sentence, increase or reduce the sentence, impose such other sentence or make such other order as the trial court could have imposed or made, except that—

(a) in no case shall a sentence be increased by reason or in consideration of evidence that was not given at the trial; and

(b) the Court shall not interfere with a sentence just because if it were a trial court it would have imposed a different sentence, unless the sentence is wrong in principle or comes to the Court with a sense of shock.

Repeal and
replacement
of section 17

8. The principal Act is amended by the repeal of section *seventeen* and the substitution therefor of the following:

Time for
appealing

17. (1) A person who intends to appeal against a judgment of the Court of Appeal shall give a notice of intention to appeal within fourteen days of obtaining leave of the Court of Appeal in the manner and form prescribed by rules of the Court of Appeal.

(2) If the intending appellant is in prison, the notice of intention to appeal or application, as the case may be, may, within the period of fourteen days referred to in subsection (1) be given to the officer-in-charge of the prison, who shall forward it to the Registrar of the Court of Appeal.

(3) The Court may extend the time for giving notice of intention to appeal or of submitting an application for leave to appeal despite the time for giving the notice or submitting the application having already expired.

(4) Where a sentence of death has been passed, an extension of time referred to in subsection (3) shall not be granted after the sentence has been confirmed by the President.

9. The principal Act is amended by the repeal of section *twenty*.

Repeal of
section 20
Amendment
of section 22

10. Section *twenty-two* of the principal Act is amended—

(a) in subsection (1)—

(i) by the deletion of the words

“High Court” and the substitution therefor of the words “Court of Appeal”; and

(ii) by the deletion of the words “ *three hundred and thirty-six* of the Criminal Procedure Code” and the substitution therefor of the words “ *eighteen* of the Court of Appeal Act, 2016”; and

Cap. 88

Act No. 7 of
2016

(b) by the repeal of subsection (2) and the substitution therefor of the following:

(2) The time during which an appellant, pending the determination of the appellant’s appeal—

(a) is admitted to bail and, subject to any directions which the Court may give to the contrary in an appeal; or

(b) if in custody, is treated as an unconvicted prisoner under this section;

shall not count as part of any term of imprisonment under the appellant’s sentence.

(3) The imprisonment of an appellant referred to in subsection (2) shall, subject to any directions which the Court may give to the contrary, be deemed to be resumed or to begin to run, as the case requires —

(a) if the appellant is in custody, from the day on which the appeal is determined; or

(b) if the appellant is not in custody, from the day on which the appellant is received into jail under the sentence.

Amendment of Part IV **11.** Part IV of the principal Act is amended, in the heading, by the deletion of the words “HIGH COURT” and the substitution therefor of the words “COURT OF APPEAL”.

Repeal and replacement of section 23 **12.** The principal Act is amended by the repeal of section *twenty-three* and the substitution therefor of the following:

Right of appeal in civil cases **23.** Subject to the exceptions and restrictions contained in section *twenty-four*, an appeal in a civil case or matter shall lie to the Court from a judgment of the Court of Appeal.

Amendment of section 24 **13.** The principal Act is amended by the deletion of section *twenty-four* and the substitution therefor of the following:

Restrictions on civil appeals **24.** An appeal shall not lie—

- (a) from an order allowing an extension of time for appealing from a judgment;
- (b) from a judgment given by the Court of Appeal without the leave of that court or, if that has been refused, without the leave of a judge of the Court;
- (d) from an order of the Court of Appeal or any judge of the Court of Appeal made with the consent of the parties or from an order relating to costs only which by law is left to the discretion of the court without the leave of the court or of the judge who made the order or, if that has been refused, without the leave of a judge of the Court;
- (e) from an order made in chambers by a judge of the Court of Appeal or from an interlocutory order or interlocutory judgment made or given by a judge of the Court of Appeal, without the leave of the judge or, if that has been refused, without the leave of a judge of the Court.

14. Section *twenty-five* of the principal Act is amended by the deletion of paragraph (*b*). Amendment of section 25

15. Part V of the principal Act is amended, in the heading, by the deletion of the word “MISCELLANEOUS” and the substitution therefor of the words “GENERAL PROVISIONS”. Amendment of Part V

16. Section *twenty-six* of the principal Act is amended in subsection (2) by the deletion of the words “the same, as nearly as may be, as that which is used in the High Court” and the substitution therefor of the words “prescribed in the rules of the Court”. Amendment of section 26

17. Section *twenty-nine* of the principal Act is amended by the deletion of subsection (3). Amendment of section 29
