

The Laws of Zambia

REPUBLIC OF ZAMBIA

THE JUDGES (CONDITIONS OF SERVICE) ACT

CHAPTER 277 OF THE LAWS OF ZAMBIA

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THE JUDGES (CONDITIONS OF SERVICE) ACT

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CHAPTER 277

JUDGES (CONDITIONS OF SERVICE)

*Act No.
14 of 1996*

An Act to provide for the emoluments, pensions and other conditions of service for Judges and to provide for matters connected with or incidental to the foregoing.

[17th March, 1997]

PART I

PRELIMINARY

1. (1) This Act may be cited as the Judges (Conditions of Service) Act. Short title, and application

- (2) This Act shall-
 - (a) apply to a judge; and

 - (b) for the purposes of entitlement to any pension and gratuity, shall apply to any judge who has retired or died after the 1st June, 1995.

2. In this Act, unless the context otherwise requires- Interpretation

"appropriate authority" means the Judicial Service Commission;

"dependant" in relation to the deceased means a person whose livelihood solely depended on the deceased immediately prior to death;

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"emoluments" means salary and allowances;

"Judge" means a Judge of the Supreme Court, a puisne Judge, and the Chairman and Deputy Chairman of the Industrial Relations Court;

"pensionable emoluments" means salary and any special addition to salary granted without any condition that it shall not count for the purpose of calculating pension.

PART II

EMOLUMENTS AND BENEFITS ON RESIGNATION, RETIREMENT OR DISMISSAL

3. There shall be paid to a Judge such emoluments as the President may, by statutory instrument, prescribe. Emoluments

4. (1) A Judge shall retire in accordance with the provisions of the Constitution. Benefits on retirement, resignation and dismissal of Judge

(2) Upon retirement, a Judge shall-

(a) be entitled to a gratuity comprising sixty months of the basic salary last received while in office; and

(b) until his death, continue to receive eighty per centum of the basic salary payable to a person holding the same or equivalent office as that held upon retirement.

(3) Where a Judge resigns after serving for a period of not less than ten years, he shall be entitled to-

(a) a gratuity comprising thirty months of the basic salary last received while in office; and

(b) a lump sum calculated as follows:

$$SC + (SC \times I \times Y);$$

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Where SC = the sum of his contributions;
I = interest at current Central Bank deposit rate;
Y = the number of completed years in respect of
Y = which he has contributed.

(4) Where a Judge resigns after serving for a period of less than ten years, he shall be entitled to-

- (a) a gratuity comprising fifteen months of the basic salary last received while in office; and
- (b) a lump sum calculated in accordance with paragraph (b) of subsection (3).

(5) A Judge who vacates his office on disciplinary grounds shall be entitled to a refund of his contributions plus interest at the current Central Bank deposit rate.

5. (1) Where, after serving for a period of not less than ten years, a Judge retires on medical evidence to the satisfaction of the appropriate authority that he is incapable by reason of infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent, he shall, with effect from the date of his retirement, be entitled-

Retirement on grounds of ill health

- (a) if his infirmity is, in the opinion of the appropriate authority, due to or occasioned by his own default-
 - (i) to a gratuity comprising thirty months of the basic salary last received while in office; and
 - (ii) to a pension calculated as follows:

$$\frac{KA \times B}{C}$$

Where KA = pensionable emoluments;
B = the number of completed months of pensionable service;
C = the age at which he retires, expressed in complete months;

- (b) if his infirmity is not, in the opinion of the appropriate authority, due to or occasioned by his own default, to the benefits under subsection (2) of section *four*.

(2) Where a Judge retires on the grounds described in subsection (1) after serving for a period of less than ten years, he shall, with effect from the date of his retirement, be entitled-

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- (a) if his infirmity is, in the opinion of the appropriate authority, due to or occasioned by his own default-
 - (i) to a gratuity comprising fifteen months of the basic salary last received while in office; and
 - (ii) to a pension calculated in accordance with sub-paragraph (ii) of paragraph (a) of subsection (1);

- (b) if his infirmity is not, in the opinion of the appropriate authority, due to or occasioned by his own default-
 - (i) to a gratuity comprising thirty months of the basic salary last received while in office; and
 - (ii) to a pension calculated in accordance with sub-paragraph (ii) of paragraph (a) of subsection (1).

6. (1) Where a Judge who was entitled to benefits under subsection (2) of section *four* dies or where a Judge dies after serving for a period of not less than ten years- Benefits following death

- (i) the gratuity payable under paragraph (a) of subsection (2) of section *four* shall, unless it was received by the deceased, be paid into his estate and shall be administered in accordance with his will, if any, or in accordance with the Intestate Succession Act, as the case may be; and Cap. 59

- (ii) his spouse, if any, shall, until death or remarriage, receive fifty per centum of the benefits to which the deceased was or would have been entitled if he had retired under the said provisions, and, in the absence of such spouse or in the event of death or remarriage, such benefits shall be payable to the unmarried children or dependants of the deceased until they attain the age of eighteen years.

(2) Where a Judge who was entitled to benefits under paragraph (b) of subsection (2) of section *five* dies or where a Judge dies after serving for a period of less than ten years-

- (i) the gratuity payable under paragraphs (a) and (b) of subsection (2) of section *five* shall, unless it was received by the deceased, be paid into his estate and shall be administered in accordance with his will, if any, or in accordance with the Intestate Succession Act, as the case may be; and Cap. 59

- (ii) his spouse, if any, shall, until death or remarriage, receive fifty per centum of the benefits to which the deceased was or would have been entitled if he had retired under the said provisions, and, in the absence of such spouse or, in the event of death or remarriage, such benefit shall be payable to the unmarried children or dependants of the deceased, until they attain the age of eighteen years.

(3) Where a Judge who was entitled to benefits under paragraph (a) of subsection (1) or (2) of section *five* dies-

- (i) the gratuity payable under subsections (1) and (2) of section *five* shall, unless it was received by the deceased be paid into his estate and shall be administered in accordance with his will if any, or in accordance with the Intestate Succession Act, as the case may be; and
- (ii) his spouse, if any, shall, until death or remarriage receive fifty per centum of the benefits to which the deceased was entitled under the said provisions, and, in the absence of such spouse or, in the event of death or remarriage, such benefits shall be payable to the unmarried children or dependants of the deceased until they attain the age of eighteen years.

Cap. 59

PART III

MISCELLANEOUS

7. (1) Where any person is appointed as Judge from the Public Service, he shall upon such appointment retire from his post in the Public Service and shall have the option either to receive his terminal benefits at the time of such retirement or to have the same deferred until ceasing to hold the office of Judge.

Appointment of Judge
from Public Service

(2) Any person serving as Judge who before the commencement of this Act was appointed from the Public Service and who has not received his terminal benefits in respect of his service in the Public Service before his appointment as a Judge, shall be entitled to receive the terminal benefits he would have received if he had retired from that service on the date of his appointment as a Judge, and shall be entitled to exercise the option described in subsection (1).

(3) After the commencement of this Act, a person to whom subsection (2) applies, shall be entitled to the terminal benefits as provided for under this Act calculated from the date of his appointment as a Judge.

(4) The terminal benefits deferred under subsection (1) shall be administered in accordance with the law relating to the pensions of public officers.

8. For the avoidance of doubt, the provisions of this Act shall override any contractual or other official arrangement relating to the retirement or other conditions of service of a serving Judge subsisting at the commencement of this Act.

Existing arrangements

9. The institution responsible for the administration of the pensions of public officers shall also be responsible for the administration of the scheme described in this Act in accordance with this Act and the prudential management provisions of the law relating to the pensions of public officers.

Administration

10. A Judge shall contribute towards the cost of the pension scheme described in this Act at the rate of seven and one quarter per centum of his pensionable emoluments or at such other rate as the Minister may fix by statutory order in consultation with the institution designated by section *nine*. Contributions

11. There shall be paid in the institution designated by section *nine* from the general revenues of the Republic such amount calculated with regard to the pensions and other benefits payable under the pension scheme described in this Act as may be fixed by the Minister in consultation with that institution following the advice of an actuary appointed by the institution. Payment from General Revenues

12. (1) The President may, by statutory instrument, make Regulations for the better carrying out of the provisions of this Act. Regulations

(2) Without prejudice to the generality of subsection (1), the President may, by statutory instrument, make Regulations prescribing the perquisites of office and other conditions of service of a Judge, including but not limited to the following-

- (a) car loans;
- (b) housing allowance;
- (c) non-private practice allowance;
- (d) funeral assistance;
- (e) travelling on duty.

13. From the commencement date, the Constitutional Offices (Emoluments) Act, 1993, shall stand repealed in so far as it applies to the salary of the Chief Justice, Deputy Chief Justice, Judges of the Supreme Court and Judges of the High Court. Repeal of certain provisions in *Act No. 43 of 1993*

SUBSIDIARY LEGISLATION

SECTION 12-THE JUDGES (SALARIES AND CONDITIONS OF SERVICE) REGULATIONS

Regulations by the President

*Statutory Instrument
140 of 1996
67 of 1997*

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PART I

PRELIMINARY

1. These Regulations may be cited as the Judges (Salaries and Conditions of Service) Regulations. Title

PART II

CONDITIONS OF SERVICE

2. There shall be paid to a Judge the salary set out in the First Schedule. Salary of Judge
3. There shall be paid to a Judge the allowances set out in the Second Schedule. Allowances for Judges
4. Every allowance payable under these Regulations shall be exempt from payment of income tax and any other tax. Exemption of allowances from tax
5. (1) A Judge shall be entitled to a rent-free fully furnished residence and shall be entitled to purchase the furniture at depreciative book value on vacating office. Housing
- (2) Where a Judge lives in the Judge's own house, the Government shall pay municipal rates for that house.
6. There shall be provided to a Judge an armed guard for twenty-four hours, to be based at the Judge's residence. Security
7. A Judge be entitled to the workers set out in the Third Schedule. Personal workers for Judges
8. (1) A Judge shall, when travelling on duty by air, be entitled to-
- (a) in the case of the Chief Justice, first class travel; and
- (b) in the case of any other Judge, business class travel. Travel on duty

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(2) Where air travel is not available and a Judge travels by road, the Judge shall be entitled to travel in a chauffeur-driven official vehicle.

9. A Judge shall be entitled to a diplomatic passport. Diplomatic passport

10. A Judge shall- Official vehicle

(a) be entitled to a personal-to-holder vehicle and a driver, and the vehicle shall-

(i) be maintained at the Judiciary's expense; and

(ii) be replaced by the Government every five years, if funds are available; and

(b) on retirement, be entitled to purchase the personal-to-holder vehicle at book value, less depreciation;

Provided that if a Judge dies before retirement, the spouse of that Judge shall be entitled to purchase the vehicle.

11. The Government shall pay the telephone bills of a Judge for local calls, and for international calls, if such international calls are official. Telephone, electricity and water Bills

12. A Judge, the spouse and children of the Judge shall be entitled to medical treatment at Government expense where such treatment is to be undertaken abroad after due approval of the Ministry responsible for health. Medical treatment

13. A Judge shall be entitled to the loans set out in the Fourth Schedule: Loans

Provided that at no time shall the Judge's salary be less than fifty per centum of the Judge's basic salary, after any payment is effected as a result of any loan obtained by the Judge.

14. (1) A Judge shall- Leave

(a) earn leave at the rate of three and a half working days in each calendar month;

(b) be entitled to take local or vacation leave up to a maximum number of leave days accrued;

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(2) Where a Judge takes vacation leave, the Government shall pay for leave travel benefits:

Provided that only the Judge, the spouse of the Judge and four children of the Judge shall be entitled to such vacation.

(3) The leave referred to in sub-regulation (1), shall be granted depending on the exigency of the service.

15. The Government shall insure a Judge against personal injury and accident up to a total of five times the basic salary paid to a Judge. Insurance

16. (1) The Government shall meet the following funeral expenses of a Judge, the spouse of the Judge and the children of the Judge: Funeral expenses

- (a) coffin;
- (b) transport to the place of burial within Zambia;
- (c) a cash payment of eighty thousand kwacha as a funeral grant; and
- (d) transport to assist in the organisation of the funeral, within the locality of the funeral.

(2) Sub-regulation (1) shall apply to a Judge, whether or not the Judge dies in office.

17. On retirement or death of any Judge, the Judge's effects shall be transported, only once, to any place in Zambia, using appropriate road or water transport. Transportation on retirement

FIRST SCHEDULE

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(Regulation 2)

<i>Office</i>	<i>Salary</i>
Chief Justice	K20,000,004
Deputy Chief Justice	K18,000,000
Supreme Court Judge	K16,000,020
Chairman, Industrial Relations Court	K15,000,000
High Court Judge	K14,000,004
Deputy Chairman, Industrial Relations Court	K14,000,004

(As amended by S.I. No. 67 of 1997)

SECOND SCHEDULE

(Regulation 3)

ALLOWANCES FOR JUDGES

- (a) A non-private practising allowance of twenty per centum of the basic salary;
- (b) when travelling on duty, locally or abroad, such allowance or special imprest as may be determined by the Government; and
- (c) fuel allowance as may be determined by Government, to run the personal-to-holder vehicle.

THIRD SCHEDULE

(Regulation 7)

PERSONAL WORKERS FOR JUDGES

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1. *Chief Justice*

- (a) one cook;
- (b) one house servant;
- (c) one gardener;
- (d) one laundry man.

2. *Deputy Chief Justice*

- (a) one cook;
- (b) one house servant;
- (c) one gardener.

3. *Judge*

Supreme Court Judge

- (i) one cook;
- (ii) one house servant;
- (iii) one gardener.

High Court Judge

- (i) one cook;
- (ii) one house servant;
- (iii) one gardener.

FOURTH SCHEDULE

(Regulation 13)

LOANS FOR JUDGES

- (a) Car loan equivalent to five times the Judge's basic salary or the cost of the car, whichever is the lower;
- (b) House loan equivalent to ten times the Judge's basic salary or the cost of the house, whichever is the lower.