

**STATUTORY INSTRUMENTS  
SUPPLEMENT No. 29**

**19th October, 2007**

**STATUTORY INSTRUMENTS SUPPLEMENT**

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**S T A T U T O R Y I N S T R U M E N T S 2007 No. 51.  
THE LOCAL COUNCIL COURTS REGULATIONS, 2007**

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2007 No. 51.

The Local Council Courts Regulations, 2007

*(Under section 45 of the Local Council Courts Act, 2006, Act No.13 of 2006)*

IN EXERCISE of the powers conferred on the Minister by section 45 of the Local Council Courts Act; and in consultation with the Minister responsible for justice, these Regulations are made this 11th day of September, 2007.

PART I—PRELIMINARY

1. Title.

These Regulations may be cited as the Local Council Courts Regulations, 2007.

2. Objectives of Regulations.

The objectives of these Regulations are to facilitate the better carrying into effect of the provisions of the Local Council Courts Act, 2006 and in particular—

- (a) to spell out clearly the operation and procedure of the Local Council Courts;
- (b) to provide for fees to be paid by users of the local council courts;
- (c) to provide for the oath to be taken by members of the court;
- (d) to provide for costs to be awarded by the courts; and
- (e) to provide for other matters such as record keeping, service of documents and other matters intended for the smooth running of local council courts.

3. Interpretation.

In these Regulations, unless the context otherwise requires—

“Act” means the Local Council Courts Act, 2006;

“appellate court” means a court hearing an appeal from a lower court;

“byelaw” means a law passed by—

- (a) a village council;
- (b) a subcounty council;
- (c) a division council;
- (d) a town council; or
- (e) a municipal council;

“chairperson” means a chairperson of a court;

“child” means a person below the age of 18 years;

“claimant” means a person who files a claim against a defendant in a court;

“community service” means a non custodial punishment by which, after conviction, the court, with the consent of the offender makes an order for the offender to serve the community rather than undergo imprisonment;

“community service order” means an order by a court requiring an offender to perform work within the community;

“complainant” means a person who files a complaint against a defendant in a court;

“Council” means a village, parish, sub county, division or town council;

“court” means—

- (a) the village local council court;
- (b) the parish local council court;
- (c) the subcounty local council court;
- (d) the division local council court; or
- (e) the town local council court;

“currency point” is equivalent to twenty thousand shillings;  
“defendant” means a person against whom a claim or complaint is filed;  
“ordinance” means a law passed by a district council;  
“party” or ‘parties’ means either the claimant, complainant or defendant;  
“*prima facie* case” means a situation where there is a high likelihood that an accused person has a case to answer;  
“judgement debtor” means any person against whom a decree has been passed or an order of execution has been made;  
“suit” or “case” includes a claim or a complaint.

PART II—MANAGEMENT AND OPERATION OF LOCAL COUNCIL COURTS.

4. Composition of village local council court.  
A village local council court shall consist of all members of the executive committee of a village.
5. Composition of parish local council court.  
A parish local council court shall consist of all members of the executive committee of a parish.
6. Composition of subcounty local council court.
  - (1) A subcounty local council court shall consist of five members appointed by the subcounty council on the recommendation of the executive committee of the subcounty council.
  - (2) At least two members of the subcounty court shall be women.
7. Composition of town local council court.
  - (1) A town local council court shall consist of five members appointed by the town council on the recommendation of the executive committee of the town council.
  - (2) At least two members of the town council court shall be women.
8. Composition of division local council court.  
A division local council court shall consist of five members appointed by the

division council on the recommendation of the executive committee of the division council.

9. Term of office of members of court.

Members of a court shall hold office for the duration of the term of a council and are eligible for re-appointment.

10. Qualification of members of town, division or subcounty court.

For a person to be appointed a member of a town, division, or subcounty local council court, that person shall—

- (a) be a resident of the area of jurisdiction of the council for which the court is appointed;
- (b) be a person of high moral character and proven integrity;
- (c) be knowledgeable in the common local language of the community in question and in English;
- (d) not be a member of a local council, a member of Parliament or a member of a statutory body;
- (e) not be a member of another local council court.

11. Oath of members of court.

(1) A member of a court shall, before assuming his or her duties as a member of the court, take and subscribe the judicial oath specified in the First Schedule to these Regulations.

(2) The oath shall be administered by a magistrate in the area in which the court is situated.

12. Allowances of members of court and secretary.

(1) Members of a court shall be paid allowances as specified in the Second Schedule to these Regulations.

(2) The allowances shall only be paid to members of a court attending the court sitting.

13. Chairperson and secretary of village court.

(1) The chairperson of the village local council shall be the chairperson

of the village local council court.

(2) The vice chairperson of the village local council shall be the vice chairperson of the village local council court.

(3) Whenever the chairperson is for any reason, unable to perform the functions of the chairperson of a village local council court, the vice-chairperson shall perform those functions until the chairperson is able to perform those functions.

(4) Where the chairperson dies, resigns or is removed from office, the vice-chairperson shall assume the office of the chairperson until a new chairperson is elected and assumes office under the Act.

(5) The secretary of the village local council court shall be co-opted by the members of the village court from outside the membership of the court.

(6) The secretary of the village local council court shall not participate in taking decisions of the court.

14. Chairperson and secretary of town, division and subcounty local council court.

(1) A town, division and subcounty local council court shall elect a chairperson and vice chairperson from among themselves.

(2) The vice chairperson shall be a woman if the chairperson is a man and vice versa if the chairperson is a woman.

(3) Whenever the chairperson is for any reason, unable to perform the functions of the chairperson, the vice-chairperson shall perform those functions until the chairperson is able to perform those functions.

(4) Where the chairperson dies, resigns or is removed from office under the Act, the vice-chairperson shall assume the office of the chairperson until a new chairperson is elected and assumes office under the Act.

(5) The Secretary to the local council court at the town council, division council or subcounty council shall be the town clerk or subcounty chief or an officer designated to be secretary by the town clerk or subcounty chief.



15. Role of chairperson.

(1) The chairperson of a court shall—

- (a) receive claims or complaints brought before a court;
- (b) forward the claims or complaints received by him or her to the secretary of the court for recording;
- (c) in consultation with other members of the court and the secretary, fix dates for hearing of a case; and
- (d) preside at the sittings of the court.

(2) In the absence of the chairperson, the vice chairperson shall perform the functions of the chairperson and in the absence of both of them, any member of the court elected by the remaining members may perform the functions of the chairperson.

16. Role of secretary.

(1) The secretary shall—

- (a) record proceedings of the court;
- (b) keep all records of court;
- (c) keep proper books in respect of receipts and expenditure of the funds of the court;
- (d) in consultation with the chairperson, arrange dates for sitting of court;
- (e) prepare court summons and notices; and
- (f) carry out any other duties in respect to the running of a court as may be assigned to him or her by the chairperson.

(2) The secretary shall not take part in the decision making of a court.

17. Time and place of sitting of court.

(1) The time and place of the sitting of a court shall be designated by the

chairperson; except that the time shall be between 8.00 a.m and 6.00 p.m.

(2) A court shall sit as often as the business of the court requires for the speedy discharge of cases.

18. Chairperson to preside over court.

(1) The chairperson of the court shall preside at the sittings of the court and in the absence of the chairperson, the vice chairperson shall preside.

(2) In the absence of both the chairperson and the vice chairperson, the members present shall elect one from among their number to be chairperson of the court for purposes of handling a case, after which, his or her mandate shall expire.

19. Quorum of court.

(1) The quorum of the court at any sitting shall be—

(a) in the case of a village or parish court, five members including the person presiding, two of whom shall be women; and

(b) in the case of a town, division or subcounty court, three members including the person presiding, one of whom shall be a woman.

(2) The quorum shall be maintained throughout the sitting of the court and if the quorum falls in the course of the sitting, the chairperson or other person presiding shall adjourn the case to another date.

(3) Where a quorum is not realised, or if a member of the court is disqualified from sitting as a result of circumstances specified in Regulation 20, the chairperson shall mobilise the other members of the court not present until a quorum is realised; but if it is not possible to get the members, other persons may be co-opted in accordance with subregulation 4

(4) The court shall only co-opt a person in exceptional circumstances, such as if the member required to constitute quorum is sick or is absent for an extended period or any other reasonable cause.

(5) A person who is co-opted by a court shall cease to sit as a member

of the court after the case for which he or she was co-opted is finalised.

(6) The following persons do not qualify for co-option—

(a) persons of unsound mind;

(b) children;

(c) a non resident within the area of the jurisdiction of the court;

(d) a person who is related either by blood or marriage to one of the parties;

(e) any person whom the court deems unfit to perform the functions of the court.

20. Disqualification of member of court.

(1) Where a member of the court has an interest in the matter before court, the member shall disclose the interest and disqualify himself or herself from the proceedings.

(2) Where a party to the proceedings objects to a member hearing the case on the ground of bias or partiality and the court finds reasonable grounds for the objection, the member affected shall be disqualified from the proceedings; but where the objection is rejected, the court shall record the objection and the reasons for refusal and proceed with hearing the case.

21. Manner of making decisions by court.

(1) Every decision to be taken by a court shall as much as possible be by consensus of all the members sitting; but where consensus is not reached or where disagreements arise which cannot be resolved, the decision shall be taken by a majority of votes of members sitting by show of hands.

(2) Where a decision is taken by a majority of votes and the votes are equal, the chairperson shall have a deciding vote.

22. Language of the court.

(1) The proceedings of a court and the record of those proceedings shall be in the language widely spoken in the area of the court's jurisdiction.

(2) Where the proceedings are recorded in a local language, they shall be translated into English and both the vernacular copy and the translated copy shall be filed by the secretary.

(3) Where any of the parties does not understand the language being used, the court shall provide an interpreter.

(4) Notwithstanding subregulation (1), the record of proceedings in a town, division or subcounty court shall be in English.

23. Legal representation.

A party to proceedings in a court shall not be represented by an advocate except—

(a) where the proceedings before the court are in respect of infringement of a bye law; or

(b) where one of the parties to a case is a child.

24. Technical rules of evidence or procedure.

A local council court shall hear every case before it expeditiously and without undue regard to technical rules of evidence or procedure.

### PART III—JURISDICTION

25. Territorial or geographical jurisdiction of courts.

The jurisdiction of a court shall extend only to causes and matters arising within the territorial area of the council for which the court is established and to causes and matters arising elsewhere if the defendant or accused is ordinarily resident within that area.

26. Legal jurisdiction.

(1) Every court shall have jurisdiction for the trial and determination of the following cases or matters—

(a) debts;

(b) contracts;

(c) assaults or assault and battery;

(d) conversion;

- (e) damage to property;
- (f) trespass;
- (g) civil disputes governed by customary law—
  - (i) disputes in respect of land held under customary tenure;
  - (ii) disputes concerning marriage, marital status, separation, divorce or the parentage of children;
  - (iii) disputes relating to the identity of a customary heir;
  - (iv) customary bailment;
  - (v) causes and matters arising out of infringement of byelaws or ordinances; and
  - (vi) matters specified under the Children Act.

(2) A court shall only handle claims and complaints in subregulations (1)(a) to (e) if the value of the claim or complaint does not exceed 100 currency points.

(3) For any matter specified in subregulation (1)(g) to (i) the court shall handle the matter without being restricted by the monetary value of the subject matter in dispute.

27. Jurisdiction of village local council court in criminal cases involving children.

(1) In accordance with section 92(2) of the Children Act, a village local council court shall have jurisdiction to try a child for any of the following offences—

- (a) affray, under section 79 of the Penal Code Act;
- (b) an offence against section 167 with the exception of paragraph (b) of the Penal Code Act;
- (c) common assault, under section 235 of the Penal Code Act;
- (d) actual bodily harm under section 236 of the Penal Code Act;

- (e) theft, under section 254 of the Penal Code Act;
- (f) criminal trespass, under section 302 of the Penal Code Act; and
- (g) malicious damage to property, under section 335 of the Penal Code Act.

(2) The village local council court shall be the court of first instance in respect of the criminal offences specified in subregulation (1) involving children.

(3) A village local council court may, notwithstanding any penalty prescribed by the Penal Code Act in respect of the offences stated in subregulation (1) , make an order for any of the following reliefs in respect of a child against whom the offence is proved—

- (a) reconciliation;
- (b) compensation;
- (c) restitution;
- (d) community service;
- (e) apology; or
- (f) caution.

(4) In addition to the reliefs under subregulation (3), the court may make a guidance order under which the child shall be required to submit himself or herself to the guidance, supervision, advice and assistance of a person designated by the court.

28. Objection to jurisdiction of court by defendant.

Where a defendant objects to the jurisdiction of a court, the case shall, if the objection is upheld, be referred to a court having jurisdiction to hear and determine the case; and if the objection is rejected, the court shall record the objection and its reasons for rejecting it, and proceed with the hearing of the case.

PART IV—INSTITUTION OF CIVIL SUITS,  
MODE OF SERVICE OF DOCUMENTS, ETC.

29. Institution of suits.

(1) A person may institute a suit against a defendant by filing a statement of claim or complaint, either orally or in writing, to the chairperson of the village local council court.

(2) Every claim or complaint shall be made orally or in writing, signed by the claimant or complainant, but if it is made orally, it shall be reduced into writing by the chairperson or secretary or a person appointed by the court for that purpose.

(3) Where an oral claim is reduced in writing, it shall be read back to the claimant or complainant and shall be signed or a thumbprint endorsed by the claimant or complainant and countersigned by the chairperson.

30. Claim by child or person of unsound mind.

Every suit by a child or a person of unsound mind or any person suffering from any disability shall be instituted in the name of the child or the person with disability by the next of kin or next friend.

31. Contents of statement of claim or complaint.

(1) A statement of claim or complaint shall contain the following information—

- (a) full names, age, sex and physical location of the claimant or complainant;
- (b) if the claimant is an organisation or institution, the name of an officer authorised to claim on behalf of the organisation or institution;
- (c) the facts constituting the claim or complaint and the remedy being sought;
- (d) monetary value of the claim;
- (e) names and addresses of possible witnesses; and
- (f) any other information relevant to the claim or complaint.

(2) The court may, before considering the claim or complaint, require the claimant to give further information and documents relating to the claim or complaint, as the court may consider necessary.

(3) A claim or complaint made under these Regulations shall, unless the fee is waived, be accompanied by the fee set out in the Third Schedule to these Regulations.

32. Where to institute suits.

(1) Every suit shall be instituted in the first instance in a village local council court, within the area of whose jurisdiction—

- (a) the defendant actually resides at the time of the commencement of the suit;
- (b) where the cause of action in whole or in part arises; or
- (c) in the case of a dispute over immovable property, where the property is situated.

33. Duties of secretary on receipt of a claim or complaint.

On receipt of a claim or complaint under Regulation 29, the secretary shall—

- (a) make enough copies of the claim or complaint for use by the court, for the parties; and
- (b) date, stamp and sign each copy.

34. Rejection of claim or complaint.

A court may refuse to file or handle a claim or complaint if—

- (a) the claim or complaint is frivolous, vexatious or unwarranted;
- (b) the court has no jurisdiction; or
- (c) the same claim or complaint is pending before another court.

35. Service of claim or complaint on defendant.

(1) After filing a suit, the chairperson or vice chairperson shall cause a notice of the claim or complaint to be served on the defendant.

(2) The chairperson shall cause summons to be served on the claimant or complainant and the defendant requiring them to attend the court at the



time and place specified in the summons for the hearing of the case, and the summons and hearing notice shall be as set out in Form A in the Fourth Schedule to these Regulations.

(3) The chairperson may cause the claimant or defendant to be summoned orally by informing him or her that he or she is summoned, but the person who orally informs the claimant or defendant shall be accompanied by a witness for that purpose.

36. Mode of service.

(1) Service of summons, notice or any other document required to be served under these Regulations shall be made by delivering to the person named in the document a duplicate of a signed and stamped copy of the document.

(2) Where there is more than one defendant, service shall be made on each defendant.

(3) Where it is not practicable to effect personal service of the summons or notice in the manner provided under this regulation, service of the summons or notice may be made on the claimant, complainant or defendant, with permission of court—

(a) by leaving the duplicate for him or her with an adult member of the claimant or complainant or defendant's family or with any other adult person ordinarily residing with the claimant, complainant or defendant;

(b) by affixing the duplicate to some conspicuous part of the house or homestead in which the person summoned ordinarily resides and thereupon, the summons or notice shall be deemed to have been duly served.

37. Proof of service.

(1) A person served with a notice, summons or other document shall acknowledge receipt by signing on the copy of the notice, summons or other document.

(2) Where a person served cannot read or write, he or she shall acknowledge receipt by affixing a thumb mark on the document.

(3) The server shall return the original to the court stating how he or she affixed the copy, the circumstances under which it was done, and the name

and address of the person, if any, who witnessed the affixing.

38. Statement of defence.

(1) A defendant may make an oral or written statement either admitting or denying the complaint or claim, within five days from the date of being served with the summons.

(2) Where a defendant makes an oral statement of defence, the secretary shall reduce it into writing.

(3) The court may accept late filing of a written statement of defence if the defendant shows that there were reasonable grounds for the delay.

(4) The statement of defence shall be served on the claimant or complainant within five days after filing it.

39. Witness summons.

(1) Prior to the date fixed for hearing of a case, summons, shall be served on any person required as a witness at the time and place specified in the summons.

(2) A witness summons shall, if practicable be served personally on the person summoned by delivering or tendering to him or her a duplicate of the summons and at the same time producing, if so required, the original.

(3) The witness summons shall be as set out in Form B in the Fourth Schedule to these Regulations.

(4) The chairperson may cause a witness to be summoned orally by informing the witness that he or she is summoned, but the person who orally summons the witness shall be accompanied by a person to witness the oral summons.

(5) A person upon whom a witness summons is served shall sign or put his or her mark as acknowledgement of receipt of the summons on the back of the original copy; and if he or she refuses to do so, the person who has effected service of the summons shall record the refusal in writing.

(6) Where, without sufficient excuse, a witness does not appear in obedience to the summons, the court, on proof of the proper service of the summons in a reasonable time before the hearing date, may issue a warrant ordering a police officer to bring him or her before the court at a time and place specified in the summons in order to give evidence and after that the

witness shall, be discharged.

(7) A witness, prior to giving evidence in court, shall take and subscribe a witness oath specified in Form G of the Fourth schedule to these Regulations.

40. Notice of hearing.

(1) upon receipt of both the claim or complaint and a written statement of defence, the court shall fix a hearing date and notify the parties.

(2) The notice of hearing shall be as set out in Form A in the Fourth Schedule to these Regulations.

PART V—PROCEDURE FOR HEARING CIVIL SUITS.

41. Trial procedure for civil suits.

(1) A court shall adopt the following procedure when hearing civil suits—

- (a) conduct the hearing in public, except in cases involving children, with due regard to order and fairness to all parties, and shall make clear to all parties or representatives of parties that the court will concentrate on the substance of the claim or complaint before it and administer substantive justice without undue regard to technicalities;
- (b) exclude any member of the court who has any interest in the proceedings which interest the member shall be under a duty to declare, or on receiving an objection from any of the parties and the court finds reasonable grounds for the objection;
- (c) before the hearing, decide what language may be used except that in a town, division and subcounty court, the language shall be English;
- (d) provide for interpretation of the proceedings where one of the parties does not understand the language of the court and the interpreter shall take and subscribe an interpreter's oath specified in Form H of the Fourth Schedule to these Regulations;
- (e) before the hearing, determine and announce the hours of the day when the hearing will take place except that in all cases the hearing shall be between 8:00 a.m and 6:00 p.m.

- (f) permit an applicant or his or her representative and any other persons wishing to make representations to the court to appear in person or by a representative including children, persons with disabilities and sick persons;
  - (g) allow the complainant or claimant to state his or her case first and then be questioned on any aspect of it to give further information, followed by the evidence of his or her witnesses;
  - (h) inform the complainant or claimant that she or he has the task of proving his or her case;
  - (i) allow the defendant to state his or her defence in the matter and then be questioned on any aspect of it to give further information, followed by the evidence of his or her witnesses;
  - (j) grant more time to the parties, or to any of them and may from time to time adjourn the hearing of the proceedings;
  - (k) visit the place where the suit arose and where necessary make notes;
  - (l) during the hearing, take down in writing the evidence of the parties and each of their witnesses; which shall be done by the secretary and signed by the chairperson;
  - (m) try to reach a consensus on all decisions and where that is not possible, then a majority decision may be reached, except that where there is an equality of votes on any matter, the chairperson shall have a casting vote; and
  - (n) once the proceedings have started, the case shall be heard expeditiously.
- (2) Notwithstanding the procedure under subregulation (1), the court shall, in conducting the hearing, be as informal as possible and offer guidance to the parties.

42. Procedure on non-appearance of the claimant or complainant.

If, on the day fixed for the hearing of a claim or complaint, the defendant appears and the claimant or complainant does not appear, the court shall, if satisfied that the summons or hearing notice has been duly served upon the claimant or complainant, ask the defendant whether he or she admits the claim or complaint and where—

- (a) the defendant admits the claim or any part of the claim, the court may give judgment against him or her for the claim or such part of the claim as he or she admits; or
- (b) the defendant does not admit the claim or complaint, the court may dismiss the claim or complaint.

43. Procedure on non-appearance of defendant.

Where, on the date fixed for hearing, the claimant or complainant appears, but the defendant does not appear, the court may, if satisfied that the summons or hearing notice notifying the defendant of the time and the place for the hearing has been duly served upon him or her, proceed to hear the evidence of the claimant or complainant and his or her witnesses if any, and if satisfied that the claimant or complainant has established his or her claim in whole or in part, shall give judgment for the claimant or complainant accordingly.

44. Procedure on non-appearance of both parties.

Where, on the date fixed for hearing neither party appears, the court may dismiss the claim or complaint.

45. Reinstatement of suit.

Where a claim or complaint is dismissed, the court may reinstate the claim or complaint if the claimant or complainant shows sufficient cause for his or her non-appearance.

46. Setting aside judgment given in absence of party.

(1) A party against whom judgment has been given under regulation 42 or 43 may request a court, either orally or in writing, to set aside the judgment given in the absence of the party making the request.

(2) The court shall set aside the judgment if it is satisfied that the party has given sufficient cause for his or her non-appearance.

PART VI—INSTITUTION OF SUITS AND PROCEDURE FOR HEARING  
INFRINGEMENT OF BYELAWS OR ORDINANCES

47. Institution of proceedings for breach of a byelaw or ordinance.

(1) A person who has reasonable and probable cause to believe that an offence has been committed by any person through a breach of a byelaw or

ordinance, may make a complaint to a court.

(2) The complaint shall be made orally or in writing; but if made orally, the complaint shall be reduced into writing by the chairperson or the secretary of the court or a person appointed by the chairperson and then signed by the complainant.

(3) The validity of any proceedings instituted under subregulation (1) shall not be affected by any defect in the charge or complaint.

#### 48. Charge sheet

(1) A chairperson of the court, upon receiving the complaint and on being satisfied that a prima facie case has been established, shall draw up or cause to be drawn up a charge sheet containing particulars of the person who is accused and the date, place and nature of the alleged offence and the place where the trial is to be held.

(2) The charge sheet shall be as set out in Form C of the Fourth Schedule to these Regulations.

(3) The charge sheet shall be read to the complainant and dated and signed by the complainant and countersigned by the chairperson or secretary, as the case may be.

(4) Where a charge sheet has been drawn, the chairperson shall issue summons to compel the attendance of the accused person before the court on the date specified in the summons and shall convene the court for the purpose of the hearing.

#### 49. Procedure at hearing for breach of a byelaw or ordinance.

(1) A court shall adopt the following procedure when hearing a case for breach of a byelaw or ordinance—

(a) the chairperson shall read the charge sheet to the accused person and the accused shall then be asked to plead to the charge by admitting or denying the charge;

(b) based on how the accused pleads, a plea of guilty or not guilty shall be recorded in the words used by the accused;

(c) where the accused admits that he or she committed a breach of a byelaw or ordinance, the court may either caution him or her or impose a fine or any other punishment permitted under the byelaw or ordinance that is breached;

(d) where the accused person denies the charge, the following procedure shall be followed—

- (i) a person appointed by a court such as a chief or a person who made the complaint shall be asked by the court to call witnesses to give evidence about the alleged breach;
- (ii) after the witnesses for the complainant have testified, the court shall ask the accused to defend himself or herself against the charge and to call witnesses, if any;
- (iii) in addition to the witnesses of the complainant and accused, the court may, if it considers it necessary, on its own motion, call witnesses to prove the charge;
- (iv) the evidence of the witnesses must be recorded;
- (v) the court shall evaluate all the evidence and make a judgment or decision;

(e) whether the accused admits or denies the charge, the judgment or decision of the court shall be written, dated and signed by the chairperson and any of the members of the court present.

(2) Where an accused person wishes to have legal representation, the court shall allow the accused to do so at his or her expense.

#### PART VII—PROCEEDINGS IN CASES INVOLVING CHILDREN

50. Procedure in a case involving a child.

The trial procedure in proceedings involving a child shall be the same as that laid down in Parts V and VI of these Regulations; except that the court shall take into account the following factors specified in section 16 of the Children Act—

- (a) proceedings shall be held in camera (private);

- (b) proceedings shall be as informal as possible and by inquiry rather than by exposing a child to adversarial procedures;
- (c) parents or guardians of the child shall be present whenever possible;
- (d) a child shall have a right to be represented by a lawyer;
- (e) the court shall explain the right of appeal to the child.

#### PART VIII—JUDGMENT OR DECISION OF COURT

##### 51. Notice of date and time of judgment or decision.

(1) After a court completes hearing the evidence of both parties, it shall give notice to both parties of the date and time at which the court shall give its judgment or decision.

(2) A judgment or decision of the court shall be given within five days from the date after completion of the hearing.

##### 52. Judgment or decision of court.

(1) A judgment or decision of a court shall be made by the chairperson and the members of the court who were present throughout the proceedings.

(2) A judgment or decision of a court shall be arrived at by consensus or where this is not possible, it shall be determined by the majority votes.

(3) A judgment or decision of a court shall be written by the chairperson or any other member under the direction of the chairperson.

(4) Where the parties reach an agreement that fully or partially disposes of the claim or complaint, the court shall record the agreement reached as a consent judgment, and the parties to the agreement shall sign it.

##### 53. Delivery of judgment or decision.

(1) For delivery of a judgment or decision—

- (a) the court shall summon all the parties to attend and shall convene at a place determined by the chairperson; and



- (b) where a party does not attend after he or she has been properly summoned, the court shall deliver its judgement or decision in the absence of that party.

(2) A judgement or decision of a court shall be delivered in the following manner—

- (a) a judgment or decision shall be read to the parties by the chairperson or any other person nominated by the chairperson;
- (b) the chairperson after delivering a judgment or decision shall sign and date the judgement or decision and it shall be countersigned by the secretary, and if possible, all the members of the court who were present throughout the proceedings; and
- (c) immediately after delivering the judgment or decision, the court shall inform the parties of their right to appeal.

54. Contents of judgment or decision.

(1) A judgment or decision of the court shall contain—

- (a) the name of the court;
- (b) the serial number of the case;
- (c) the names of the parties;
- (d) brief particulars of the claim or complaint;
- (e) a summary of the evidence of all the witnesses and the reasons for accepting or rejecting the evidence;
- (f) the judgement or decision and reasons for the judgement or decision;
- (g) the relief or remedy, if any, granted to the parties; and
- (h) an order as to costs.

55. General powers of court.

Without prejudice to any other powers, a local council court may make an order for any one or more of the following reliefs—

- (a) reconciliation;
- (b) declaration;
- (c) compensation;

- (d) restitution;
- (e) costs;
- (f) apology;
- (g) attachment and sale; and
- (h) in the case of infringement of a byelaw impose a fine, community service or any other penalty authorised by that byelaw or ordinance.

PART IX—ENFORCEMENT OF JUDGMENT OR DECISION OF COURT

56. Procedure for compensation.

(1) Where a court awards compensation exceeding twenty-five currency points, the court shall refer the case to a Chief Magistrate for execution of the order and the Chief Magistrate may, if he or she finds that the award is grossly excessive, reduce the amount of the award taking into account awards in similar cases.

(2) Where a court makes an order for compensation—

- (a) in a case of property, the defendant shall give as compensation, the equivalent of the property or a monetary equivalent of the value of the property;
- (b) the defendant shall pay or make such compensation, in the case of property, to the plaintiff within seven days after the date on which the judgment or decision is made;
- (c) in case of injury suffered, the defendant shall pay the amount of money as the court may consider appropriate; and
- (d) in the case of injury suffered, the defendant shall pay or make compensation to the plaintiff within seven days after the date on which the judgment or decision is made.

(3) Where the defendant fails without sufficient cause to obey the order made by the court within the specified time, the chairperson shall invite the defendant to give reasons for his or her failure to compensate the claimant or complainant failing which, the court may make an order for attachment and

sale of the property of the defendant.

57. Procedure for restitution.

(1) Where a court makes an order for restitution, the defendant shall return the property in question to the person entitled to it, within seven days after the date the order is made.

(2) A court may, upon request by a claimant or complainant, make any other order including attachment and sale of the property of the defendant.

58. Procedure for attachment and sale.

(1) Where a court orders execution of its judgment or order, by attachment and sale, the property belonging to the judgment debtor shall be liable to be attached and sold.

(2) Where the court is satisfied that an attachment was done in accordance with the warrant and that there is no objection to the attachment but that the debtor is unable to pay the decretal amount and the costs of execution so far incurred, the court shall endorse the return on the attachment and authorise the sale of the property attached.

(3) Court shall not make an order for the attachment of the immovable or real property of a judgement debtor, crops still in the field, the dismantling of his or her dwelling house or the removal of the judgment debtor from the land except with the written consent of a Chief Magistrate.

(4) Where court orders a sale of the property of a judgment debtor, it shall order the sale to be made by public auction, and public notice in such manner as the court may direct shall first be given, and the chairperson of the court shall guide the person conducting the sale on the value of the property being sold having regard to the prevailing prices of similar property.

(5) Where a court orders a sale, it shall give notice of the date and place where the sale of the property of the judgment debtor shall take place.

(6) A sale shall not be unlawful, illegal or invalid simply because the value at which the property is sold is less than its market value provided that the sale is able to meet the claim of the judgment creditor and other costs met that are incurred by the court as a result of the sale.

(7) Where the property is sold at a public auction, the judgment debtor automatically loses all rights direct and incidental to the property.

(8) Where these Regulations do not provide a sufficient guide on attachment and sale of property, the provisions of the Act on attachment and sale of property shall apply.

(9) A warrant of attachment and sale shall be as set out in Form D of the Fourth Schedule to these Regulations.

59. Procedure for community service

(1) Where a court has made an order for community service, the court shall follow the guidelines to courts regarding community service specified in the Community Service Regulations, 2001.

(2) In applying the Community Service Regulations, the court shall specify in the community service order the nature of work to be performed by the offender and that work shall be reasonable and not beyond the capability, physical strength and actual ability of the offender.

PART X—APPEALS

60. Right of appeal.

(1) A party dissatisfied with the judgment or decision of a court may appeal against the judgment or decision but no appeal shall lie from a judgment or decision passed or made as a result of the consent of the parties.

(2) An appeal shall lie from—

(a) a judgment or decision of a village local council court to a parish court;

(b) a judgment or decision of a parish court to a town, division or subcounty court;

(c) a judgement or decision of a town, division or subcounty court to a Chief Magistrate's court; and

(d) the decrees and orders on appeal by the Chief Magistrate, with the leave of the Chief Magistrate or of the High court to the High court.

61. Lodging of appeals.

(1) A party aggrieved by the decision of a court may appeal against that judgment or decision by giving notice to the chairperson or secretary of the court to which the appeal lies.

(2) A notice of appeal shall be lodged within fourteen days after the date of the decision on which an appeal is to be made.

(3) An appeal from a Chief Magistrate's court shall be lodged in the High court within fourteen days after the date on which leave to appeal is granted.

(4) An appeal shall be presented in a memorandum of appeal signed by the appellant, setting forth the grounds of appeal, and the memorandum of appeal shall be as set out in Form E in the Fourth Schedule to these Regulations.

(5) An appellant shall state in a notice of appeal whether he or she intends to appeal against—

(a) the whole judgment or decision;

(b) part of the judgment or decision, and if so specify the part;

(c) against conviction or sentence.

(6) In the case of an appeal by a child, the appeal shall be lodged by a next-friend or a guardian.

(7) An appellate court shall cause a notice of the memorandum of appeal to be served on the respondent in the manner set out in Form F in the Fourth Schedule to these Regulations.

62. Service of notice of appeal on persons affected.

(1) An intended appellant shall, within seven days after lodging a notice of appeal, serve copies of the notice of appeal on all persons directly affected by the appeal.

(2) An intended respondent shall be presumed to be served with a copy of the notice of appeal when the copy is delivered at the home address of the

intended respondent.

63. Procedure on appeal.

(1) An appellate court shall call for the record of proceedings of the case from the lower court which handled the case.

(2) An appellate court shall not hear an appeal afresh but shall evaluate the evidence on record and decide whether the trial court arrived at the correct decision or not.

(3) A party to an appeal may request the appellate court to call additional evidence.

(4) The court may, on its own without any request being made by any party to an appeal, call witnesses or additional evidence if it is of the opinion that it is in the interest of justice to do so.

(5) Notwithstanding subregulation (2), where an appellate court is satisfied that the trial in the lower court was badly handled, such that evidence on its record would not be of any advantage, the appellate court may, on its own motion or on application of a party to the appeal, hear the case afresh.

64. Powers of appellate court.

(1) After an appeal is heard, the appellate court may either allow or dismiss the appeal.

(2) An appeal may only be dismissed where the appellate court is of the view that the decision of the lower court was correct.

(3) Where the appellate court is of the view that the decision of the lower court was not correct, the court shall allow the appeal and may—

- (a) reverse the judgment or decision of the lower court;
- (b) vary the judgment or decision or part of the judgment or decision;
- (c) increase or reduce the amount of compensation awarded or fine imposed by the lower court;
- (d) in case of community service, reduce or increase the hours or days, or change the nature of work to be performed by the offender;

- (e) substitute an order for—
  - (i) reconciliation;
  - (ii) declaration;
  - (iii) compensation;
  - (iv) restitution;
  - (v) costs;
  - (vi) apology;
  - (vii) attachment and sale; or
  - (viii) fine.

PART XI—MISCELLANEOUS.

65. Fees.

(1) A person instituting a case or filing an appeal under these Regulations shall pay to the court where the case is being instituted or where the appeal is being filed, the fee specified in the Third Schedule to these Regulations.

(2) A court may, under special circumstances, exempt a person from paying the fees if the court satisfies itself that the claimant or appellant has no means of raising the fees.

66. Costs.

(1) A court may, after completion of a case and after making a decision, make an order that the party who lost the case pay costs to the party who won the case.

(2) An order for costs shall be made to offset the expenses of the successful party which, he or she incurred in prosecuting or defending the case and these may include—

- (a) filing fees;

(b) transport costs.

(3) A court shall not award costs in excess of the expenses but shall only award costs so as to restore a successful party to the position in which he or she was before the suit.

(4) Before awarding costs, the court shall summon the parties and ask each of them to make a representation before the final amount is awarded.

67. Records.

(1) Every court shall keep a separate record for criminal proceedings involving breach of byelaws or ordinances and a record for civil proceedings.

(2) A record shall include the following particulars and documents—

(a) the serial number of the case;

(b) the statement of claim or complaint;

(c) the date of witness summons;

(d) the date of hearing of the case;

(e) the names and addresses of the claimant and his or her witnesses;

(f) the names and addresses of the defendant and his or her witnesses;

(f) a brief description of the case;

(g) substance of the evidence given by the parties and their witnesses, a list of exhibits, if any and judgment of the court;

(h) the documentary exhibits, if any;

(i) the judgment or decision of the court and the date when judgment or decision was made;

(j) the date of payment of the judgment debt, if any; and (k) particulars of execution of the judgment or decision.

68. Extension of time limited by these Regulations.

A court may, for good reason extend the time limited by these Regulations for



the doing of any act required by these Regulations, whether before or after the expiration of the time.

69. Court may seek legal advice.

Where a court, during trial of a case, finds it necessary to seek legal advice or interpretation on any issue, the court may adjourn the case to another date and seek legal advice from a magistrate or a state attorney resident in the area.

70. Application of Civil Procedure Rules and Criminal Procedure Code Act.

(1) Where these Regulations are silent on any procedural matter regarding a civil suit, the Civil Procedure Rules shall apply.

(2) Where these Regulations are silent on any procedural matter regarding a criminal case, the Criminal Procedure Code Act shall apply.

71. Revocation of S.I 8 - 1.

The Executive Committees (Judicial Powers) (Court Fees) Regulations are revoked.

## SCHEDULES

### FIRST SCHEDULE

*Regulation 11(1)*

### JUDICIAL OATH

I, ..... swear in the name of the almighty God/solemnly affirm that I will well and truly exercise the judicial functions entrusted to me and will do right to all manner of people in accordance with the Constitution of the Republic of Uganda as by law and usage of the Republic of Uganda without fear or favour, affection or ill-will. (So help me God).

SIGN

SECOND SCHEDULE

*Regulation 12(1)*

ALLOWANCES

Allowances for members and secretary of Local Council Court of a town, division or subcounty shall be 10,000 shs per sitting.

<b>Item</b>	<b>Matter</b>	<b>Shillings</b>
1.	For any amount claimed for any debt or breach of contract that is between 0-20,000/=	500/=
2.	For any amount claimed for any debt or breach of contract that is more than 20,000/= but less than 100,000/=	1,500/=
3.	For any amount claimed for any debt or breach of contract that is more than 100,000/= but less than 500,000/=	2,500/=
4.	For any amount claimed for any debt or breach of contract that is more than 500,000/= but less than 1,000,000/=	3,000/=
5.	For any amount claimed for any debt or breach of contract exceeding 1,000,000/= but not more than 2,000,000/=	4,000/=
6.	For any claim relating to assaults or assault and battery, conversion, damage to property and trespass.	1,500/=
7.	For any claim relating to damage to crops	500/=
8.	For any claim relating to trespass by animals	1,000/=
9.	In case of disputes relating to land under customary tenure.	1,500/=
10.	For disputes concerning marriage, marital status, separation, divorce or the parentage of children.	1,500/=
11.	In case of disputes relating to identity of a customary heir.	1,500/=
<b>Appeals</b>		
1.	In case of an appeal in respect of any matter from the village local council court to a parish local council court.	2,000/=
2.	For an appeal from a parish local council court to a town, division, subcounty local council court.	2,500/=
3.	In case of an appeal from the town, division or subcounty local council court to the Chief Magistrate.	3,000/=
4.	For certified copies of every page of the documents of the proceedings.	200/=

*Regulations 31(3) and 65(1)*

Dated this            day of                                    20.

FEES

FOURTH SCHEDULE

*Regulations 35(2) and 40(2)*

FORM A

SUMMONS AND HEARING NOTICE

In the ..... court .....

Case No..... of 20 .....

.....Claimant or Complainant

*Versus*

.....Defendant

To:

Whereas the above named complainant/claimant has instituted a suit against  
you

You are hereby required to appear in this court on the .....  
day of ..... 20 ..... at .....am/p.m. and to bring  
your witnesses with you.

If no appearance is made by you or a person authorised by law to act for you,

Dated this         day of                     20.

the case may be heard and decided in your absence.  
*Chairperson*

FORM B

*Regulation 39(3)*

WITNESS SUMMONS

In the ..... court.....

Case No ..... of 20.....

..... Claimant or Complainant

*Versus*

..... Defendant

To:

Your attendance is required as a witness on behalf of the ..... in the  
above case. You are hereby required to appear before this Court on  
the ..... day of ..... 20..... at ..... am/pm and to  
bring with you all the documents , if any, relating to the matter.

*Chairperson*

FORM C

*Regulation 48(2)*

CHARGE SHEET



SIGN ..... *Chairperson*  
SIGN ..... *Accused person*  
FORM D  
*Regulation 58(7)*

WARRANT OF ATTACHMENT AND SALE OF PROPERTY

In the ..... court.....

Case No..... of 20.....

..... Claimant or Complainant

*Versus*

..... Defendant

To:

Whereas..... was ordered by a  
judgment of this court passed on the ..... day of 20.....in the case  
to pay the sum of .....

And whereas this sum has not been paid, you are ordered to attach the  
following property

1.....

2.....

unless he or she pays the above mentioned sum, you are ordered to sell by  
public auction the property in execution of the above mentioned judgment or so  
much of the property as will realize the above mentioned sum.

You are also hereby ordered to return this warrant on or before the.....day  
of ..... 20.....with an endorsement certifying the manner

in which it has been executed or the reason why it has not been executed.

Dated this ..... day of ..... 20.....

*Chairperson*

FORM E

*Regulation 61(4)*

MEMORANDUM OF APPEAL

In the ... ..... Court of.....

Case No. .... of  
20 .....

Appellant

*Versus*

Respondent

Appeal from a judgment/decreed/order of the Court of ..  
.....dated in Case No .....of 20

.....at

The above named appellant appeals to the Court of. against the whole or part  
of the above mentioned decision on the following grounds namely:

- 1.....
- 2 .....

It is proposed to ask the Court for an order that:

*Appellant*

Lodged with the Chairperson of the Appellate Court at



on the ... day of

20

*Chairperson of the Appellate Court*

\* Delete as appropriate

FORM F

*Regulation*

61(7) NOTICE OF MEMORANDUM OF APPEAL

In the ..... Court of .....

Case No.....of 20 .....

..... Appellant

*Versus*

..... Respondent

TAKE NOTICE that ..... being  
dissatisfied with the ..... decision of the Court  
.....given on..... 20.....,

intends to appeal to this Court against the whole of the decision or the  
following parts of the decision of that Court; namely—

- 1.
- 2.

Dated this .....day of ..... 20.

*Chairperson of the Appellate Court*

To

FORM G

*Regulation 39(7)*

WITNESS OATH

I, ....., solemnly swear by the Almighty God/solemnly affirm, that the evidence I shall give touching the matter now before the court, shall be the truth, the whole truth and nothing but the truth. (So help me God)

*Regulation 41(1)(d)*

INTERPRETER'S OATH

I, ..... solemnly swear by the Almighty God/solemnly affirm, that I will well and truly interpret and explain to the court and the witness all such matters and things as shall be required of me to the best of my skill and understanding. (So help me God).

Cross References

1. Children Act, Cap 59
2. Civil Procedure Rules S.I 65-3
3. Community Service Regulations, 2001, S.I 55 of 2001
4. Criminal Procedure Code Act, Cap 116
5. Penal Code Act, Cap 120.

FORM H MAJ. GEN. KAHINDA OTAFIIRE,  
*Minister of Local Government.*