

ACTS SUPPLEMENT

to The Uganda Gazette No. 36 Volume XCIV dated 8th June, 2006.

Printed by UPPC, Entebbe, by Order of the Government.

Act 13

Local Council Courts Act

2006

THE LOCAL COUNCIL COURTS ACT, 2006.

ARRANGEMENT OF SECTIONS.

Section.

PART I—PRELIMINARY

1. Short title
2. Interpretation

**PART II—ESTABLISHMENT AND COMPOSITION OF
LOCAL COUNCIL COURTS**

3. Establishment of local council courts
4. Composition of local council courts
5. Qualification of members of a local council court
6. Chairperson and Secretary to the town, division and sub-county local council court.
7. Vacation of office by a member of town, division and sub-county local council court

PART III—OPERATION OF LOCAL COUNCIL COURTS

8. Sitting area of court etc.
9. Territorial jurisdiction of local council courts
10. Legal jurisdiction
11. Where to institute suits
12. Objection to jurisdiction by defendant
13. Powers of court

PART IV—INSTITUTION OF CIVIL PROCEEDINGS

14. Institution of civil proceedings
15. Notice of claim to be served on parties

Section.

- 16. Representation by nominee
- 17. Appearance by a corporation

PART V—INSTITUTION OF PROCEEDINGS IN RESPECT OF
BREACH OF BYE-LAW

- 18. Institution of proceedings for breach of bye-laws
- 19. Charge sheet

PART VI—SUMMONS OF WITNESSES

- 20. Witness summons

PART VII—RECORDS OF PROCEEDINGS

- 21. Language of court
- 22. Records of proceedings

PART VIII—RULES OF PROCEDURE AND
PRINCIPLES OF NATURAL JUSTICE

- 23. Technical rules of evidence or procedure
- 24. Principles of natural justice

PART IX—REMEDIES

- 25. Compensation
- 26. Restitution
- 27. Attachment and sale, warrant *etc*
- 28. Restrictions on attachment and sales
- 29. Applications of proceeds of sale
- 30. Where the debtor has no property
- 31. Stay of execution

PART X—APPEALS.

- 32. Right of appeal
- 33. Lodging of appeal
- 34. Witnesses in appellate court
- 35. Powers of appellate court

PART XI—MISCELLANEOUS.

36. Court to be open
37. Parties to be informed of their right of appeal
38. Prohibition of a case determined in former case.(Res judicata)
39. Local council court not to deal with cases where suit or matter is already pending before another court.
40. Chief Magistrate's supervisory powers
41. Fees and remuneration of members of court
42. Utilization of fees and fines
43. Protection of members and officers of court
44. Suit where case pending before another court
45. Regulations
46. Amendment of Schedules
47. Consequential amendment of Magistrates' Courts Act (Cap. 16)
48. Adaptations
49. Consequential amendment of Children Act (Cap. 59)
50. Repeal and saving

SCHEDULES

First Schedule

Currency point

Second Schedule

Cases and Matters of a Civil nature which may be triable by local council courts

Third Schedule

Civil Disputes Governed by Customary Law, triable by local council courts

Form A—Summons and Hearing Notice

Form B—Witness Summons

Form C—Warrant of Attachment and Sale of property

Form D—Memorandum of Appeal

Form E—Notice of Memorandum of Appeal

THE LOCAL COUNCIL COURTS ACT, 2006.

An Act to establish local council courts for the administration of justice at the local level, to define the jurisdiction, powers and procedure of the established courts and to provide for other related matters.

DATE OF ASSENT: 24th May, 2006.

Date of Commencement: 8th June, 2006.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.

1. Short title

This Act may be cited as the Local Council Courts Act, 2006.

2. Interpretation

In this Act unless the context otherwise requires—

“advocate” has the meaning given to it by the Advocates Act;

“appellate court” means a court to which an appeal is made under this Act;

“Chairperson” means a Chairperson of a local council court and a Vice Chairperson shall be construed accordingly;

“Chief Magistrate” has the meaning given to it by the Magistrates’ Courts Act;

“council” includes all councils referred to in sections 3 and 45 of the Local Governments Act;

“currency point” has the meaning given to it in the First Schedule to this Act;

“customary law” means the rules of conduct established by custom and long usage having the force of law and not forming part of the common law nor formally enacted in any legislation;

“local council court” means the local council court established under section 3;

“Minister” means the Minister responsible for local government;

“sign and “counter-sign” include affixing a thumb print or mark; and

“village”, “parish”, “town”, “division” and “sub-county” have the meanings given to them in the Local Governments Act.

PART II—ESTABLISHMENT AND COMPOSITION OF LOCAL COUNCIL COURTS

3. Establishment of local council courts

There is established a local council court at every village, parish, town, division and sub-county level.

4. Composition of local council courts

(1) The local council court of a village or parish shall consist of all members of the executive committee of the village or parish.

(2) The local council court of a town, division or sub-county shall consist of five members appointed by the town council, division council or sub-county council on the recommendation of the respective executive committee.

(3) At least two members of the town, division or sub-county local council court shall be women.

5. Qualifications of members of a local council court

For any person to be appointed a member of a town, division, or sub-county 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.

6. Chairperson and Secretary to the town, division and sub-county local council court

(1) A town, division, sub-county, local council court shall elect a Chairperson and a 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) If the Chairperson dies, resigns or is removed from office under this Act, the Vice-Chairperson shall assume the office of the Chairperson until a new Chairperson is elected by the council and the new Chairperson assumes office.

(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.

(6) The Secretary shall not take part in the decision making of the court.

7. Vacation of office by a member of the town, division or sub-county local council court

(1) A member of a town, division or sub-county local council court may on the recommendation of the relevant executive committee be removed from office by a resolution of the council supported by not less than two thirds of the council members present on any of the following grounds—

(a) abuse of office;

(b) corruption;

(c) if the member is continuously and persistently unable to discharge the functions of the court;

(d) if the member is convicted by a court of competent jurisdiction for a criminal offence specified in the Penal Code or any other written law if punishable by not less than six months imprisonment with or without an option of a fine;

(e) misconduct or misbehaviour;

(f) if a member has such physical or mental incapacity that renders the member incapable of performing the functions of the court as determined by the Medical Board as specified in section 14 of the Local Governments Act.

(2) The office of member of the town, division or sub-county local council court shall fall, vacant if—

- (a) the member resigns office by writing signed by him or her addressed to the Chairperson of the court and in the case of the Chairperson of the court addressed to the Chairperson of the respective council;
- (b) the member is disqualified from membership under section 5;
- (c) a member dies;
- (d) if a member has been absent for three consecutive court sittings unless such a member has grounds acceptable to the court.

(3) Where a vacancy occurs the Chairperson of the court, or if the vacancy is in the office of Chairperson, the Chairperson of the respective council, shall notify the executive committee of the council and the executive committee shall recommend another person in place of that member to be appointed by the council.

(4) Members of a local council court shall hold office for the term of the council and shall be eligible for re-appointment.

(5) Section 47 of the Local Governments Act, shall apply to the vacation of office of a member of the village or parish local council court.

PART III—OPERATION OF LOCAL COUNCIL COURTS.

8. Sitting area of court etc

(1) A local council court may be held at a designated place within the limits of its jurisdiction for the convenient and speedy discharge of its business.

(2) 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.

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

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

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

(b) in the case of a town, division or sub-county, three members including the person presiding, one of whom shall be a woman;

(5) The quorum shall be maintained throughout the court sitting.

(6) If the quorum is lost for any reason, the court shall adjourn to another time.

(7) Every question arising before a local council court shall be determined by consensus; and in the absence of a consensus shall be determined by a majority of votes of the members sitting by show of hands.

(8) Where the votes are equal, the Chairperson shall have a casting vote.

(9) Subject to the provisions of this section the judgment of the court shall be made by the Chairperson and the members of the court who were present throughout the hearing of the evidence relating to that case.

9. Territorial jurisdiction of local council courts

Subject to the provisions of this Act and any other written law, the jurisdiction of a local council 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.

10. Legal jurisdiction

(1) Subject to the provisions of this Act and of any other written law, every local council court shall have jurisdiction for the trial and determination of—

- (a) causes and matters of a civil nature specified in the Second Schedule to this Act;
- (b) causes and matters of a civil nature governed only by customary law specified in the Third Schedule;
- (c) causes and matters arising out of infringement of bye-laws and Ordinances duly made under the Local Governments Act;
- (d) matters specified under the Children Act;
- (e) matters relating to land.

(2) In any suit relating to causes and matters specified in the Second and Third Schedules—

- (a) the jurisdiction of the local council court shall, in respect of causes and matters specified in the Second Schedule be restricted to causes and matters where the value of the subject matter in dispute does not exceed one hundred currency points;
- (b) the jurisdiction of the court in respect of causes and matters specified in the Third Schedule shall not be restricted by the monetary value of the subject matter in dispute.

(3) In any suit relating to causes and matters specified in the Second Schedule and in the Third Schedule, where the court awards compensation exceeding twenty five currency points, the court shall refer the case to the Chief Magistrate of the area for the purposes of execution of the order and the Chief Magistrate may, if he or she finds that the judgment award is grossly excessive, reduce the amount of the award taking into account awards in similar cases.

11. Where to institute suits

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

- (a) the defendant actually resides at the time of the commencement of the suit; or
- (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.

(2) Subject to this Act, every suit shall be received by the Chairperson and in the absence of the Chairperson, by the Vice-Chairperson.

12. Objection to jurisdiction by defendant

Where a defendant objects to the jurisdiction of the local council 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 local council court shall record the objection and its reasons for rejecting it, and proceed with the trial of the case.

13. 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; or
- (g) attachment and sale; and

- (h) in the case of infringement of a bye-law or Ordinance, impose a fine, community service or any other penalty authorised by that bye-law or Ordinance.

PART IV—INSTITUTION OF CIVIL PROCEEDINGS

14. Institution of civil proceedings

(1) Every civil suit shall be instituted by stating to the Chairperson the nature of the claim against the defendant and the relief sought by the claimant.

(2) Every claim shall be signed by the claimant, but if made orally, shall be reduced into writing by the Chairperson, Secretary or a person appointed by the local council court for the purpose, and when reduced into writing shall be read to the claimant and shall be signed by the claimant and counter signed by the Chairperson.

(3) The statement of claim shall be filed and a date for the hearing of the case fixed and the court shall, be convened by the Chairperson for the purpose.

(4) For the avoidance of doubt, in this section in the case of a person who is unable to sign his or her name “sign” includes affixing of a thumb print.

15. Notice of claim to be served on parties

(1) On filing the statement under section 14, the Chairperson or other person shall cause a notice of the claim to be served upon the defendant.

(2) The Chairperson shall cause summons to be served on the claimant 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 shall be substantially as set out in Form A in the Fourth Schedule to this Act.

(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.

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

(a) by leaving the duplicate for him or her with an adult member of his or her family or with any other adult person ordinarily residing with him or her; or

(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.

16. Representation by nominee

(1) Where the party is unable to appear in court due to mental or physical incapacity, the local council court may, on being satisfied that a person has been nominated by that person or is in charge of that person or his or her property, allow that person to represent him or her in court.

(2) For the avoidance of doubt, no party to proceedings before a local council court may be represented by an advocate except in proceedings dealing with the infringement of bye-laws.

17. Appearance by a Corporation

Appearance before a local council court by a Corporation shall be by an authorized officer of the Corporation or any other person appointed in writing by the Corporation for the purpose.

PART V—INSTITUTION OF PROCEEDINGS IN RESPECT OF
BREACH OF BYE-LAW.**18. Institution of proceedings for breach of bye-laws**

(1) Any person who has reasonable and probable cause to believe that an offence has been committed by any person through a breach of bye-laws, may make a complaint to the local council court; and that complaint may be made orally or in writing, signed by the complainant; but if made orally, 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.

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

19. Charge sheet

(1) The Chairperson or Secretary of a local council 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 accused and the date, place and nature of the alleged offence; and 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.

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

PART VI—SUMMONS OF WITNESSES

20. Witness summons

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

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

(3) The witness summons shall be substantially as set out in Form B in the Fourth Schedule to this Act.

(4) The Chairperson may cause a witness to be summoned orally in the manner provided in subsection (3) of section 15 for summoning a claimant or defendant.

(5) Every person upon whom a witness summons is served shall sign or put his or her mark, in the recognition of the receipt of the summons upon 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 local council court, on proof of the proper service of the summons in reasonable time before the hearing date, may issue a warrant ordering the Police force 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) Any witness who having been summoned to give evidence or to produce any document before a local council court—

(a) without lawful excuse, refuses to give evidence before the local council court or refuses or willfully fails to produce any document in his or her possession when requested to do so by the local council court;

(b) gives before a local council court evidence which he or she knows to be false in a material particular,

commits an offence and is liable on conviction, to a fine not exceeding one currency point or imprisonment not exceeding ten days or both.

PART VII—RECORDS OF PROCEEDINGS

21. Language of court

(1) Subject to subsections (2) and (3) of this section, the proceedings of the local council court and the records of those proceedings shall be in the language of the court, which shall be the language widely spoken in the area of jurisdiction.

(2) Where any of the parties does not understand the language of the local council court, the court shall provide an interpreter.

(3) Notwithstanding subsection (1), the record of proceedings in a town, division or sub-county local council court shall be in English.

22. Records of proceedings

(1) A parish, town, division, sub-county local council court shall keep records of its proceedings in writing.

(2) A village local council court shall keep records of all court proceedings and where necessary may co-opt a person for the purpose of recording the proceedings.

(3) The records kept under this section shall include the following particulars and documents—

- (a) the serial number of the case;
- (b) the statement of claim;
- (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;
- (g) a brief description of the case;
- (h) the documentary exhibits, if any;

(i) the judgment or final orders of the court and the date of the judgment or final orders;

(j) the date of payment of the judgment debt;

(k) the particulars of execution of the judgment, if any.

(4) A person co-opted under sub-section (2) shall have no voting powers.

(5) At the hearing of a case in a town, division or sub-county local council court whether sitting as an original or appellate court, a summary of the evidence given by each person shall be recorded separately.

PART VIII—RULES OF PROCEDURE AND PRINCIPLES OF NATURAL JUSTICE.

23. Technical rules of evidence or procedure

Subject to the provisions of this Act a local council court shall hear every case before it, expeditiously and without undue regard to technical rules of evidence or procedure.

24. Principles of natural justice

In exercising its jurisdiction, the local council court shall be guided by the principle of impartiality without fear or favour and shall adhere to the rules of natural justice, and in particular shall ensure—

(a) that each party is given an opportunity to be heard;

(b) that each party is given notice of the proceedings and of the case against him or her;

(c) that each party is accorded ample opportunity to call witnesses and to adduce such evidence as he or she requires to support his or her case; and

(d) that any member of the local council court who directly or indirectly has an interest of whatever nature, in the issue in dispute is disqualified from hearing the case.

PART IX—REMEDIES

25. Compensation

Subject to the provisions of this Act, where the local council court decides to award compensation it shall order the defendant to give such property or cash as the court may consider to be the equivalent of the complainant's property or right which was damaged, lost or injured.

26. Restitution

Where the local council court makes an order for restitution, the defendant shall return the property in question to the person entitled to it.

27. Attachment and sale, warrant, etc

(1) Where the local council court orders execution of a judgment by attachment and sale of any property, the court shall order the attachment and sale of only the property belonging to the judgment debtor and shall give the judgement debtor notice of the order.

(2) A sale of property under this section shall, subject to the sub-section (3) be by public auction, conducted by a person appointed by the local council court.

(3) The following persons shall not be eligible to bid for any property under sale effected under this section—

(a) a person conducting the sale;

(b) a member of the relevant executive committee or the local council court whether or not he or she was a member of the court which heard the case or ordered the sale; and

(c) a member of the household or a business partner of the person conducting the sale or of a member of the executive committee or the local council court.

(4) A warrant of attachment and sale issued under this Act shall be substantially as set out in Form C in the Fourth Schedule to this Act

28. Restrictions on attachments and sales

(1) The local council court shall not order the attachment and sale of a judgment debtor's property without first giving the judgment debtor an opportunity to give reasons for failure to pay.

(2) The local council court shall not order the attachment and sale of the property of an incorporated company unless the company is itself the judgment debtor.

(3) The local council court shall not order the attachment and sale of the property of a partnership without due notice being given to all the partners.

(4) The local council court shall not order the attachment and sale of a matrimonial home or a kibanja.

29. Application of proceeds of sale

Where a sale has been effected under section 27 the proceeds of sale shall be applied to satisfy the costs of the sale, if any, and the judgment debt; and the balance, if any, shall be given to the former owner of the property sold.

30. Where debtor has no property

Where the judgment debtor has no property for attachment and sale for satisfaction of the judgment debt and the local council court is of the opinion that the judgment debtor is otherwise able to pay but has deliberately refused or neglected to pay the judgment debt, the court shall refer the judgment debtor to the Chief Magistrate of the area with recommendations that the judgment debtor be committed to civil custody.

31. Stay of execution

(1) No order shall be made for execution of a judgment or order of the local council court until the period allowed for lodging an appeal under this Act has expired without an appeal being lodged.

(2) Where an appeal is lodged, the appeal shall operate as a stay of execution until final disposal of the appeal.

(3) The local council court with which the appeal was lodged may, on application of the judgment creditor, order the execution to proceed if in the opinion of the court a further stay of execution would defeat the ends of justice.

PART X—APPEALS

32. Right of appeal

(1) A party dissatisfied with the judgment or order of a local council court may, subject to the provisions of this section or any written law, appeal against the judgment or order; but no appeal shall lie from a judgment or order passed or made as a result of the consent of the parties.

(2) An appeal shall lie—

(a) from the judgment and orders of a village local council court to a parish local council court;

(b) from the judgment and orders of a parish local council court, to a town, division or sub-county council court;

(c) from the judgment and orders of a town, division or sub-county local council court to a court presided over by a Chief Magistrate;

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

(3) Leave to appeal under paragraph (d) of sub-section (2) of this section shall not be granted except where the intending appellant satisfies the Chief Magistrate or the High Court that the decision against which an appeal is intended involves a substantial question of law or is a decision appearing to have caused a substantial miscarriage of justice.

(4) For the purposes of sub-section (3), an application for leave to appeal shall, in the first instance, be made to the Chief Magistrate within thirty days from the date of the decision sought to be appealed from and an application to the High court for leave shall be made within the twenty-one days from the date on which the Chief Magistrate refuses the application.

33. Lodging of appeal

(1) An appeal from a village, parish, town, division or sub-county local council court shall be lodged within fourteen days from the date of the judgment or order appealed against; and an appeal from the Chief Magistrate's Court shall be lodged within fourteen days from the date leave to appeal is granted.

(2) Every appeal shall be presented in a memorandum signed by the appellant, setting forth the grounds of appeal, and the memorandum shall be substantially as set out in Form D in the Fourth Schedule to this Act.

(3) The appellate court shall cause a notice of the memorandum of appeal to be served on the respondent, and the notice shall be substantially as set out in Form E of the Fourth Schedule to this Act.

34. Witnesses in appellate court

On the application of either party to an appeal, or on its own motion, an appellate court may, if in its opinion it would be in the interests of justice to do so, call witnesses and receive additional evidence as it may in its discretion determine, or may hear the case afresh.

35. Powers of appellate court

(1) Upon hearing an appeal, the appellate court may dismiss the appeal on the ground that the decision appealed from did not occasion any miscarriage of justice or may allow the appeal.

(2) Where the appellate court allows an appeal, it may—

(a) reverse or vary the decision appealed from;

(b) subject to any limit prescribed by this Act or any other written law, increase or reduce an amount of compensation awarded or fine imposed by the lower court; or

(c) substitute any order or a combination of the orders set out in section 13 of this Act for an order or orders made by the lower court.

36. Court to be open

(1) A local council court shall sit for the hearing of cases during the hours of daylight.

(2) A local council court may, if it considers it necessary at any stage of the trial of a case including domestic relations, order that the public generally or any particular person shall not have access to or be or remain in the room, building or place used by the court.

37. Parties to be informed of their right of appeal

After delivering its decision, the court shall inform the parties of their right to appeal.

38. Prohibition of case already determined in former case (Res judicata)

No local council court shall try any suit or issue in which the matter directly and in a substantial manner, has been heard and finally determined in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, by a court competent to try that suit or issue.

39. Local council court not to deal with cases where suit or matter is already pending before another court

No local council court shall proceed with the trial of any suit or proceeding in which the matter in issue is also directly and substantially in issue in a previously instituted suit or proceeding where the other court before which the suit or proceeding is pending has original or appellate jurisdiction in Uganda to grant the relief claimed.

40. Chief Magistrate's supervisory powers; Cap 13

The general powers of supervision over Magistrates' Courts conferred upon the High Court by the Judicature Act may be exercised by the Chief Magistrate over local council courts on behalf of the High Court.

41. Fees and remuneration of members of court

(1) The plaintiff to a case in a local council court shall pay to the Local Council Court fees in accordance with regulations made by the Minister but the Minister shall take into account indigent persons when making the regulations.

(2) Allowances for members of the local council court shall be determined by the regulations made by the Minister.

42. Utilisation of fees and fines

(1) A local council court shall keep proper books of accounts and other records in respect of receipts and expenditure of funds paid as fees and fines to the court.

(2) Monies received from fees and fines of court shall be utilised by the local council court—

(a) to buy stationery and other operational requirements of the court;

(b) to pay for witness transportation where necessary; and

(c) to pay allowances of the members of the court.

(3) For the purposes of this section—

(a) in case of a town, division or subcounty the Secretary to the local council court shall be accountable for the funds; and

(b) in the case a village or parish local council court the Chairperson shall be accountable for the funds.

43. Protection of members and officers of court

(1) No member of a local council court shall be liable to be sued in any court for any act done by him or her in the discharge of his or her judicial functions whether or not within the limits of his or her jurisdiction, if he or she at the time, in good faith, believed himself or herself to have jurisdiction to do the act complained of.

(2) No officer of the local council court or other person bound to execute its lawful orders or warrants shall be liable to be sued in any court in respect of any lawful act done in the execution of any such order or warrant.

44. Suit where case is pending before local council court or other court under this Act

No court shall proceed with the trial of any suit or proceeding in which the matter in issue is also directly and substantially an issue in a previously instituted suit or proceeding between the same parties, or between parties under whom they or any of them claim, litigating under the same title, where the suit or proceeding is pending in any local council court or other court under this Act having original or appellate jurisdiction to grant the relief claimed.

45. Regulations

(1) The Minister may, by statutory instrument, make regulations generally for the better carrying into effect the provisions of this Act.

(2) Without prejudice to the general effect of subsection (1), regulations may be made under that subsection in consultation with the Minister responsible for justice, prescribing—

(a) costs to be awarded by courts under this Act;

(b) fees required to be paid under this Act;

(c) the oath to be subscribed by members of local council courts and the oath to be taken by witnesses; and

(d) except as expressly provided by this Act, the procedure to be followed by local council courts at the hearing of cases; and regulations made for that purpose may, where appropriate, apply to the local council courts with or without modifications, the provisions of any enactment relating to the operation of Magistrates' Courts.

46. Amendment of Schedules

The Minister may, by statutory order, amend any Schedule to this Act; except that an amendment to the First Schedule shall be after consultation with the Minister responsible for finance and with the approval of the Cabinet.

47. Consequential amendment of Magistrates' Courts Act Cap. 16

Notwithstanding the provisions of section 207 of the Magistrates' Courts Act, the jurisdiction of a Chief Magistrate for the trial and determination of the causes and matters specified in the Third Schedule to this Act shall be unlimited.

48. Adaptations

In any enactment in force at the commencement of this Act, any references to Executive Committee Courts shall be construed as references to local council courts.

49. Consequential amendment of Children Act Cap.59

The Children Act is amended by substituting for section 92 the following section—

“Role of local council courts.

92.(1) Subject to the provisions of this Act, all causes and matters of a civil nature concerning children shall be dealt with by the village local council court where the child resides or where the cause of action arises.

(2) A village local council court shall, in addition to any jurisdiction conferred on it by the Local Council Courts Act, 2006, have criminal 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;

(g) malicious damage to property, under section 335 of the Penal Code Act.

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

(4) A village local council court may, notwithstanding any penalty prescribed by the Penal Code Act in respect of the offences stated in subsection (2) of this section, make an order for any of the following reliefs in respect of a child against whom the offence is proved—

(i) reconciliation;

(ii) compensation;

(iii) restitution;

(iv) community service;

(v) apology; or

(vi) caution.

(5) In addition to the reliefs under subsection (4) of this section, 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.

(6) A guidance order shall be for a maximum period of six months.

(7) A local council court shall not make an order remanding a child in custody in respect of any child appearing before the court.

(8) Proceedings in respect of a child appearing before a local council court shall be in accordance with the procedure laid down by the Local Council Courts Act, 2006 except that the court shall have due regard to provisions set out in paragraphs (b), (c), (d) and (f) of subsection (1) of section 16 of this Act.”

50. Repeal and saving

(1) The Executive Committees (Judicial Powers) Act is repealed.

(2) Notwithstanding the repeal made by subsection (1), any statutory instrument made under the repealed Act and in force at the commencement of this Act, shall continue in force so far as consistent with this Act and may be revoked or amended by regulations made under section 45 of this Act.

(3) Any case pending before a court under the Executive Committees (Judicial Powers) Act at the commencement of this Act may be continued and concluded by that court notwithstanding the repeal of that Act.

CURRENCY POINT

A currency point is equivalent to twenty thousand shillings .

Cases and Matters of a Civil Nature which may be triable by Local Council Courts—

1. Debts
2. Contracts
3. Assault or assault and battery
4. Conversion
5. Damage to property
6. Trespass

SECTION 10

Civil Disputes governed by Customary Law, triable by Local Council Courts—

- (a) disputes in respect of land held under customary tenure;
- (b) disputes concerning marriage, marital status, separation, divorce or the parentage of children;
- (c) disputes relating to the identity of a customary heir;
- (d) Customary bailment.

FORMS

SECTIONS 15, 20, 27 AND 33

FORM A

SUMMONS AND HEARING NOTICE

In the Court

Case No. of 20.....

..... **Claimant**

Versus

..... **Defendant**

To:

.....
.....
.....

Whereas the above named plaintiff has instituted a suit against the above-named defendant for

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 by a person authorized by law to act for you, the case may be heard and decided in your absence.

DATED this day of 20.....

.....
Chairperson

FORM B

WITNESS SUMMONS

In the Court

Case No. of 20.....

..... Claimant

Versus

..... Defendant

To:

.....
.....
.....

Your attendance is required as a witness on behalf of the.....in
the above suit. You are hereby required to appear before this Court on the
..... day of 20..... at am/pm
and to bring with you

.....
.....
.....

DATED this day of 20.....

.....
Chairperson

FORM C.

WARRANT OF ATTACHMENT AND SALE OF PROPERTY

In the Court

Case No. of 20.....

..... Claimant

Versus

..... Defendant

To:

.....
.....
.....

Whereas was ordered by a judgment
Of this Court passed on the day of 20.....
In the case to pay to the sum of Shs.

And whereas this sum has not been paid, you are ordered to attach the
following property of 1.
2. 3.

Unless he or she pays to you 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

In the Court
Case No. of 20.....
..... Appellant

Versus

..... Respondent
(Appeal from a judgment / decree / order* of the Court ofat

At dated in Case No. of 20.....
The above named appellant appeals to the Court of
against the whole / 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 aton
the day of 20

.....
Chairperson of the Appellate Court

*Delete as appropriate

NOTICE OF MEMORANDUM OF APPEAL

In the Court

Case No. of 20.....

..... Appellant

Versus

..... Respondent

TAKE NOTICE thatbeing dissatisfied with the decision of the Court given aton 20....., intends to appeal to this Court against the whole of the decision / the following parts of the decision of that court, namely*

1.

2. etc

Dated this Day of, 20.....

.....
Chairperson of the Appellate Court

To:

Cross References

Advocates Act, Cap. 267

Children Act, Cap. 99

Executive Committees (Judicial Powers) Act, Cap 8

Local Governments Act, Cap. 243

Magistrates Courts Act, Cap 16