

**THE CONSTITUTION (LAND EVICTIONS) PRACTICE DIRECTIONS, LEGAL
NOTICE NO...../ 2019**

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**THE CONSTITUTION (LAND EVICTIONS) PRACTICE DIRECTIONS, LEGAL
NOTICE NO...../ 2019
(Under Article 133 (1) (b) of the Constitution)**

IN EXECRCISE of the powers conferred upon the Chief Justice by Article 133 (1) (b) of the Constitution, these Practice Directions are issued thisday of.....2019.

PART I – PRELIMINARY

1. Title.

These Practice Directions may be cited as The Constitution (Land Evictions) Practice Directions, 2019.

2. Application.

These Practice Directions shall apply to all courts of judicature.

3. Objectives of these Practice Directions.

The objectives of these Practice Directions are–

- (a) to protect proprietary interests as provided for under Article 26 of the Constitution;
- (b) to promote and ensure respect of fundamental principles of natural justice;
- (c) to promote uniformity and consistency in the handling of evictions;
- (d) to promote harmony among the various key stakeholders in the administration of justice;
and or
- (e) to give direction to every judicial officer, litigant, bailiff, police officer, counsel, and other stakeholders on eviction procedures.

4. Interpretation.

In these Practice Directions, unless the context otherwise requires–

“bailiff” means a person licensed as such by an appointing authority under rule 5 of The Judicature (Court Bailiffs) Rules SI 13-16, but does not include a company or association or body of persons corporate or incorporate;

- (f) evictions shall include mechanisms, such as storage for 14 days, to protect property and possessions left behind from destruction;
- (g) persons carrying out evictions shall respect the principles of necessity and proportionality prior to and during the use of force;
- (h) evicted persons shall be given first priority to salvage and demolish their property; and
- (i) all evictions shall take place between 8am to 6pm and shall not be carried out on weekends, court vacation or public holidays.

6. Considerations for eviction.

(1) A court shall, when issuing an eviction order on land-

- (a) issue adequate and reasonable notice of intent to consider an eviction of not less than six (6) months to the affected parties;
- (b) issue a notice of eviction in writing or through public barazas and broadcast media, in the national and local language or the language spoken by the majority of people in the locality; and
- (c) the eviction notice shall contain the particulars of the land to which the notice relates and necessary information on the reasons for the proposed eviction.

(2) A bailiff shall adhere to paragraph 6(1)(a)-(c) in the execution of an eviction order.

PART III – EVICTION ORDERS

7. Warrant of eviction.

The court shall be guided by the record of proceedings at locus during the trial before issuing a warrant of eviction.

8. Clarity of order of eviction.

The court shall when making an order of eviction ensure that the order is clear and contains the following—

- (a) particulars of the person(s) to be evicted;
- (b) the date of the eviction, being not less than (6) months after the date of the order by which the person to be evicted shall vacate the land;
- (c) order as to expenses, damages, compensation; and
- (d) any other matter the court deems fit.

“eviction” refers to the removal of a person from possession of a proprietary interest through a court action;

“lawful or bona fide occupancy” have the meaning under section 29 of the Land Act;

“local authority” means an administrative unit of a local government;

“locus in quo” refers to the land that is the subject-matter of the action;

“tenant by occupancy” means a lawful or bonafide occupant declared to be a tenant by occupancy under Section 31 of the Land Act;

“proprietary interests” means tangible or non-tangible rights accorded to property owners;

“order of demolition” refers to a legally binding order issued by court compelling and or authorising demolition of a structure or building;

“eviction order” refers to a legally enforceable order from a court to vacate a property.

PART II – EVICTION PROCEDURES

5. Eviction procedures.

All evictions carried out by bailiffs or any other person authorised by a Court shall be carried out in accordance with the following principles—

- (a) shall be preceded by a court properly identifying those taking part in the eviction or demolition and presentation of the formal authorizations for the action;
- (b) Police and local authority shall be notified and police shall ensure law and order during the eviction;
- (c) evictions must be carried out in a manner that respects the dignity, right to life, property and security of those affected;
- (d) measures shall be taken to ensure effective protection to groups and vulnerable persons such as women, children, the elderly, and persons with disabilities;
- (e) there shall be no arbitrary deprivation of property or possessions as a result of eviction;

9. Orders of demolition.

(1) Where a court concludes that a registered land owner or a person with interest on land has a right to demolish illegal structures on his or her land, the demolition order shall specifically provide the following—

- (a) the identity of the claimant(s);
- (b) the identity of the defendants(s) or affected persons;
- (c) date for the demolition; and
- (d) the parties that constructed the illegal structures on the land.

(2) A court, when ordering the demolition of an illegal structure shall—

- (a) determine a just and equitable date by which the occupant shall vacate the land;
- (b) give the illegal occupant opportunity to remove the illegal structure; and
- (c) determine the date on which a demolition and eviction order may be carried out if the illegal occupant has not removed his or her structure, or otherwise vacated the land as ordered.

(3) The court shall when issuing a warrant of eviction or orders to put parties in possession or to demolish illegal structures, exercise due diligence by avoiding to endorse whatever is contained in applications for execution.

10. Execution of Orders of sale of immovable property.

Where orders of sale of immovable property in execution of and to satisfy a decree, or taxed costs, are made, care should be taken not to infringe on rights of tenants in occupation of such property or persons enjoying easements over the property or the rights of other lawful encumbrances.

Cross references

The Constitution

The Registration of Title Act Cap 230

The Land Act Cap 227

The Civil Procedure Act Cap 71

The Civil Procedure Rules SI 71-1

The Practice Directions No.1 of 2007

The Judicature (Bailiff Rules) SI 13-6

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BART .M. KATUREEBE
Chief Justice