

CHAPTER 7:13
SUPREME COURT ACT

(Will be amended by the Judicial Service Act [Chapter 7:18] (No. 10 of 2006) when it comes into operation)

Acts 28/1981, 3/1984 (s. 4); 31/1984, 1/1992, 15/1992; 9/1997 (s. 10).

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AN ACT to make provision for the jurisdiction, powers, practice and procedure of the Supreme Court of Zimbabwe and for the making of rules and regulations in connection therewith; to make

provision for appeals from decisions of courts and tribunals in Zimbabwe; to confer powers of review on the Supreme Court of Zimbabwe; and to provide for matters incidental to or connected with the foregoing

[Date of commencement: 28th August, 1981.]

WHEREAS, in relation to the Supreme Court, sections 79 (1) (a), 79A, 79B and 80 of the Constitution provide that—

79. (1) *The judicial authority of Zimbabwe shall vest in—*

- (a) *the Supreme Court and;*
- (b) *.....*
- (c) *.....*

79A. *The judiciary of Zimbabwe shall consist of—*

- (a) *the Chief Justice, who shall be head of the judiciary; and*
- (b) *the judges of the Supreme Court; and*
- (c) *.....*
- (d) *.....*

79B. *In the exercise of his judicial authority, a member of the judiciary shall not be subject to the direction or control of any person or authority, except to the extent that a written law may place him under the direction or control of another member of the judiciary.*

80. (1) *There shall be a Supreme Court which shall be a superior court of record and the final court of appeal for Zimbabwe and shall have such jurisdiction and powers as may be conferred upon it by or in terms of this Constitution or any Act of Parliament.*

(2) *The Supreme Court shall consist of—*

- (a) *the Chief Justice;*
- (b) *such other judges of the Supreme Court, being not less than two, as the President may deem necessary;*
- (c) *such other judges as have been appointed under subsection (3).*

(3) *If the services of an additional judge are required for a limited period, the Chief Justice may appoint a person who holds the office of judge of the High Court or who has held office as a judge of the Supreme Court or the High Court to act as a judge of the Supreme Court for such period as may be specified by the Chief Justice.*

(4) *An Act of Parliament may provide for the conferring, by way of rules of court, upon a registrar of the Supreme Court, duly appointed thereto, of the jurisdiction and powers of the Supreme Court in civil cases in respect of—*

- (a) *the making of orders in uncontested cases, other than orders affecting status or the custody or guardianship of children;*
- (b) *deciding preliminary or interlocutory matters, including applications for directions but not including matters affecting the liberty of the subject:*

Provided that any such Act of Parliament shall provide for the right of any person who is aggrieved by the order or decision of any such registrar to have the order or decision reviewed by a judge of the Supreme Court who may, on such review, amend, vary, set aside or confirm the order or decision concerned or give such other order or decision as he deems fit.

AND WHEREAS it is desirable that an Act of Parliament make further provision in relation to the Supreme Court:

NOW, THEREFORE, be it enacted as follows—

PART I
PRELIMINARY

1 Short title

This Act may be cited as the Supreme Court Act [*Chapter 7:13*].

2 Interpretation

In this Act—

“Chief Justice” means the Chief Justice of Zimbabwe;

“civil case” means any case or matter which is not a criminal case or matter;

“judge” includes an acting judge of the Supreme Court;

“judgment” includes a decision or order;

“Minister” means the Minister of Justice, Legal and Parliamentary Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“rules of court” means the rules of court made in terms of section *thirty-four*.

PART II
COMPOSITION AND PROCEDURE

3 Composition of Supreme Court

For the purpose of exercising its jurisdiction in any matter, the Supreme Court shall be duly constituted if it consists of not less than three judges of whom one shall be—

- (a) the Chief Justice; or
- (b) a judge of the Supreme Court other than an acting judge of the Supreme Court:

Provided that—

- (i) except in the case of appeals from decisions of the High Court, the Chief Justice may give directions, either generally or in respect of any particular case, for the jurisdiction of the Supreme Court to be exercised by two judges of the Supreme Court, of whom at least one shall be a judge other than an acting judge of the Supreme Court;
- (ii) if an appeal involves a difficult or important question of law or if at any stage during the hearing of an appeal such a question of law arises, the presiding judge of the Supreme Court may direct that the hearing of the appeal or the hearing in respect of that question of law, as the case may be, shall proceed before such greater number of judges than originally constituted the court as may be determined by the Chief Justice;
- (iii) where the Chief Justice or the Minister so directs, in any case involving a question of the application, enforcement or interpretation or an infringement of the Constitution, the Supreme Court shall not be duly constituted unless it consists of not less than five judges of whom either—
 - (a) one shall be the Chief Justice and at least two others shall be judges of the Supreme Court, other than acting judges of the Supreme Court; or
 - (b) at least three shall be judges of the Supreme Court, other than acting judges of the Supreme Court.

4 Decisions of Supreme Court

(1) When more than two judges of the Supreme Court are sitting together the decision of the majority shall be the decision of the Supreme Court.

(2) When there is a difference of opinion on an appeal or application being heard by an even number of judges of the Supreme Court sitting together and the opinions are equally divided, the decision of the Supreme Court shall be suspended until the opinion of a further judge of the Supreme Court has been obtained, and thereupon the decision of the majority of such judges shall be the decision of the Supreme Court.

(3) If at any stage during the hearing of an appeal or application by three or more judges of the Supreme Court any such judge dies or retires or is otherwise unable to sit as a member of the Supreme Court or is absent, the presiding judge may in his discretion direct that the appeal or application shall proceed before the remaining judges or that a further judge of the Supreme Court be obtained to sit.

(4) In any case in which—

- (a) a decision has been suspended in terms of subsection (2) in order to obtain the opinion of a further judge of the Supreme Court; or
- (b) a further judge of the Supreme Court has been obtained to sit in an appeal in terms of subsection (3);

the presiding judge may direct the recalling of any witness or order further argument before the judges who originally constituted the court and the further judge.

5 Judge not to sit on appeal from his own decision

A judge of the Supreme Court shall not sit as a judge on the hearing of an appeal to the Supreme Court from any judgment given by himself or in which he has concurred or from which he has dissented or in respect of which he has been formally consulted.

6 Practice and procedure

In any matter relating to records, practice and procedure for which no special provision is contained in this Act or in rules of court, the matter shall be dealt with by the Supreme Court or a judge thereof as nearly as may be in conformity with the law and practice for the time being observed in England by the Court of Appeal.

7 Process of Supreme Court

The process of the Supreme Court shall run throughout Zimbabwe and any judgment of the Supreme Court shall have effect in Zimbabwe and shall be executed and enforced by the High Court in like manner as if it were an original judgment of the High Court.

8 Warrant for production of appellant before Supreme Court

When the presence of an appellant who is in custody is necessary or desirable at the hearing of his appeal or he has been given leave to be present at the hearing of his appeal in terms of section *twenty-nine*, a judge of the Supreme Court may issue a warrant for the production of the appellant at the appeal.

PART III
CRIMINAL APPEALS

9 Jurisdiction in appeals in criminal cases

(1) The Supreme Court shall have jurisdiction to hear and determine an appeal in any criminal case from the judgment of any court or tribunal from which, in terms of any other enactment, an appeal lies to the Supreme Court.

(2) Unless provision to the contrary is made in any other enactment, the Supreme Court shall hear and determine and shall exercise powers in respect of an appeal referred to in subsection (1) in accordance with this Act.

10 Concession of appeal by Attorney-General

When an appeal against conviction in a criminal case, other than an appeal from the judgment of the High Court, has been noted to the Supreme Court, the Attorney-General may, at any time before the hearing of the appeal, give notice to the registrar of the Supreme Court that he does not for reasons stated by him support the conviction, whereupon a judge of the Supreme Court in chambers may allow the appeal and quash the conviction without hearing argument from the parties or their legal representatives and without their appearing before him.

11 Prosecution of appeals in person

(1) Except where a judge of the High Court has, in terms of paragraph (b) or (e) of subsection (2) of section 44 of the High Court Act [Chapter 7:06], granted leave to appeal, a person who has noted an appeal in a criminal case to the Supreme Court shall not be entitled to prosecute such appeal in person unless a judge of the Supreme Court has certified that there are reasonable grounds for appeal.

(2) An application for a certificate in terms of subsection (1) shall be made in such manner and within such time as may be prescribed in rules of court.

(3) In considering an application referred to in subsection (2) the judge of the Supreme Court may, if the Attorney-General has given notice to the registrar of the Supreme Court that he does not for reasons stated by him support the conviction, allow the appeal and quash the conviction without hearing argument from the parties or their legal representatives and without their appearing before him.

(4) If the certificate in terms of subsection (1) is withheld, the judge of the Supreme Court may—

- (a) in respect of the appellant, exercise any of the powers conferred upon the High Court by subparagraph (ii), (iii) or (vi) of paragraph (b) of subsection (2) of section 29 of the High Court Act [Chapter 7:06]; or
- (b) in respect of any other person who was convicted after being charged jointly with the appellant, exercise any of the powers conferred upon a judge of the High Court by subsection (5) of section 29 of the High Court Act [Chapter 7:06]:

Provided that—

- (i) a judge of the Supreme Court shall not exercise any of the powers conferred in terms of subparagraph (i), (ii) or (iii) of paragraph (b) of subsection (2) of section 29 of the High Court Act [Chapter 7:06] unless another judge of the Supreme Court has agreed with the exercise of the power in that particular case;
- (ii) paragraph (b) shall not apply where the person who was charged jointly with the appellant has noted an appeal against the conviction or sentence and is to be represented by a legal practitioner at the hearing of the appeal.

(5) Where a case is dealt with in terms of paragraph (b) of subsection (4), sections 59, 63 and 64 of the Magistrates Court Act [Chapter 7:10] shall apply, *mutatis mutandis*, as if such case were subject to review.

(Subsection as amended by s. 10 of Act No. 9 of 1997)

12 Determination of appeals in ordinary cases

(1) Subject to this section and section *fourteen*, on an appeal against conviction, the Supreme Court shall allow the appeal and quash the conviction if it thinks that the judgment of the court or tribunal before which the appellant was convicted should be set aside—

- (a) on the ground that—
 - (i) it is unreasonable; or
 - (ii) it is not justified, having regard to the evidence;
- or
- (b) on the ground of a wrong decision on any question of law; or
- (c) because on any other ground there was a miscarriage of justice;

and in any other case shall dismiss the appeal.

(2) Notwithstanding that the Supreme Court is of the opinion that any point raised might be decided in favour of the appellant, no conviction or sentence shall be set aside or altered unless it appears to that court that a substantial miscarriage of justice has in fact resulted.

(3) If any point raised is decided in favour of the appellant and it consists of a misdirection by the trial court or tribunal of itself on a question of law or a question of fact or a question of mixed law and fact, the Supreme

Court shall dismiss the appeal if it is satisfied that the evidence which has to be considered has not been substantially affected by the misdirection and that the conviction is justified having regard to the evidence.

(4) On an appeal against sentence the Supreme Court shall, if it thinks that a different sentence should be passed—

(a) quash the sentence passed at the trial and pass such other sentence warranted in law in substitution therefor, whether more or less severe, as it thinks ought to be passed, having regard to all the circumstances, including events which have occurred after the date of sentence:

Provided that in no case shall any sentence be increased by reason of or in consideration of any evidence that was not given at the trial; or

(b) without altering the sentence passed at the trial, declare what sentence the court or tribunal of first instance should have passed;

and in any other case shall dismiss the appeal.

13 Special powers of Supreme Court in respect of appeals by Attorney-General on points of law or against acquittals

(1) Where the Attorney-General seeks the leave of a judge of the Supreme Court to appeal against the judgment of a court—

(a) on a point of law; or

(b) because it has acquitted or quashed the conviction of any person who was the accused in the case on a view of the facts which could not reasonably be entertained;

a judge of the Supreme Court may, in granting such leave or at any time thereafter, make such orders or give such directions as he thinks fit in order to secure the attendance before the Supreme Court of the person who was the accused in the case concerned, including orders or directions for the issue of a summons or warrant of arrest, and the granting of bail or taking of recognizances.

(2) On an appeal by the Attorney-General on a point of law or against the acquittal or quashing of a conviction by any court or tribunal, the Supreme Court—

(a) may confirm the decision of the court or tribunal concerned; or

(b) may give judgment declaring the verdict and sentence which it considers the court or tribunal concerned should have given without, however, altering the judgment in the particular case concerned; or

(c) may exercise such other powers as are conferred upon it in relation to appeals against conviction or sentence by any other provision of this Act and may, where there has been an acquittal or the quashing of a conviction and where it is considered desirable having regard to the interests of justice to do so, substitute a verdict of guilty and either pass sentence itself or remit the case to the court concerned for the passing of sentence.

14 Powers of Supreme Court in special cases

(1) If it appears to the Supreme Court that an appellant, though not properly convicted on some count of the indictment, summons or charge, has been properly convicted on some other count of the indictment, summons or charge, the Supreme Court may either confirm the sentence passed on the appellant at the trial or pass such sentence, whether more or less severe, in substitution therefor as it thinks proper and as may be warranted in law on the count of the indictment, summons or charge on which the Supreme Court considers that the appellant has been properly convicted.

(2) Where an appellant has been convicted of an offence and the trial court or tribunal could on the indictment, summons or charge have found him guilty of some other offence, whether because it was, according to law, a competent verdict or because that other offence had been alleged as an alternative count and on the findings of the trial court or tribunal it appears to the Supreme Court that the trial court or tribunal must have been satisfied of facts which proved him guilty of that other offence, the Supreme Court may instead of allowing or dismissing the appeal, substitute for the judgment of the trial court or tribunal a judgment of guilty of that other offence, whether or not the appellant had been acquitted of that offence in the trial, and may—

(a) pass such sentence; or

(b) remit the case to the court or tribunal concerned for the passing of such sentence;

in substitution for the sentence passed at the trial, whether more or less severe, as may be warranted in law for that other offence.

(3) If on any appeal it appears to the Supreme Court that, although the appellant did the act or made the omission charged against him, he was mentally disordered or defective at the time the act was done or the omission was made so as not to be responsible for his actions according to law, the Supreme Court may set aside the sentence passed at the trial and order that the appellant be kept in custody in some prison, and thereafter be dealt with in accordance with law in like manner as if a special verdict had been made at the trial that he was guilty of the act or omission charged but was mentally disordered or defective when he did the act or made the omission.

15 Determination by Supreme Court of questions reserved by High Court

(1) Where the High Court has reserved for the determination of the Supreme Court—

(a) any question decided by the High Court on exception or objection taken to an indictment in a criminal trial; or
(b) after the conclusion of a criminal trial, any question of law which arose in that trial;

the Supreme Court shall, subject to this section and rules of court, determine the question.

(2) On the determination of a question referred to in paragraph (a) of subsection (1), the Supreme Court may confirm, amend or set aside the decision in respect of which the question was reserved and give such directions as the Supreme Court thinks fit to give as to the indictment concerned and further proceedings in the High Court.

(3) The determination by the Supreme Court of any question referred to in paragraph (b) of subsection (1) shall in no way affect the finality of the finding of the High Court in the particular case in which the question was reserved if that finding was made in favour of the accused.

16 Powers of Supreme Court in relation to order ancillary to conviction

(1) Where the operation of any award or order of restitution or reversion of property and of any other award or order which is an award or order ancillary to conviction is suspended pending the determination of an appeal to the Supreme Court, that court may by order annul or vary any such award or order although the conviction is not quashed and the award or order, if annulled, shall not take effect and, if varied, shall take effect as so varied.

(2) If a conviction is quashed on appeal any award or order such as is referred to in subsection (1) shall not take effect.

17 Supplementary powers of Supreme Court

For the purposes of this Part, the Supreme Court may, if it thinks it necessary or expedient in the interests of justice—

- (a) order the production of any document, exhibit or other thing connected with the proceedings, the production of which appears to it necessary for the determination of the case;
- (b) order any witness who would have been a compellable witness at the trial to attend and be examined before the Supreme Court, whether he was or was not called at the trial, or order the examination of any such witness to be conducted in the manner provided by rules of court before any judge of the Supreme Court or before any officer of the Supreme Court or justice of the peace or other person appointed by the Supreme Court for the purpose, and allow the admission of any deposition so taken as evidence before the Supreme Court;
- (c) receive the evidence, if tendered, of any witness, including the appellant, who is a competent but not compellable witness and, if the appellant makes application for the purpose, of the husband or wife of the appellant in cases where the evidence of the husband or wife could not have been given at the trial except on such application;
- (d) set aside the conviction and remit the case to the court or tribunal of first instance for further hearing, with such instructions as regards the taking of further evidence or otherwise as appears to it necessary;
- (e) where any question arising at the appeal involves prolonged examination of documents or accounts or any scientific or local investigation which cannot, in the opinion of the Supreme Court, conveniently be conducted before that court, order the reference of the question in the manner provided by rules of court for inquiry and report to a special commissioner appointed by the Supreme Court, and act upon the report of any such commissioner so far as the Supreme Court thinks fit to adopt it;
- (f) appoint any person with special expert knowledge to act as an assessor in an advisory capacity in any case where it appears to the Supreme Court that such knowledge is required for the proper determination of the case;
- (g) issue any warrant necessary for enforcing an order or sentence of the Supreme Court;
- (h) exercise any of the powers of review conferred upon the High Court by section 29 of the High Court Act [Chapter 7:06]:

Provided that whenever the Supreme Court receives further evidence or gives instructions for the taking of further evidence, it shall make such order as will secure an opportunity to the parties to the proceedings to examine every witness whose evidence is taken.

18 Statement of case or question of law arising on appeal

In the case of an appeal in a criminal case which involves a question of law alone, a judge of the Supreme Court may, if he thinks fit, request the court or tribunal from which the appeal is brought to state the question, together with all the circumstances under which the said question has arisen, in such manner as may be prescribed by rules of court.

19 Time for obtaining leave to appeal

(1) In any case where a person desires to apply to a judge of the Supreme Court for leave to appeal, such application shall be submitted to the registrar of the Supreme Court within such period and in such manner and form as may be prescribed by rules of court.

(2) If the applicant is in prison, an application in terms of subsection (1) may, within the time prescribed, be given to the officer in charge of the prison, who shall forward the application to the registrar of the Supreme Court.

(3) A judge of the Supreme Court may extend the time for giving notice of intention to appeal or of submitting an application for leave to appeal, notwithstanding that the time for giving such notice or submitting such application has already expired:

Provided that, where sentence of death has been passed by the High Court, no extension of time shall be granted after the sentence has been confirmed by the President.

20 Detention as unconvicted prisoner

The time during which an appellant in custody is treated, pending the determination of his appeal, as an unconvicted prisoner shall not, unless the Supreme Court otherwise directs, count as part of any term of imprisonment under his sentence.

PART IV CIVIL APPEALS

21 Jurisdiction in appeals in civil cases

(1) The Supreme Court shall have jurisdiction to hear and determine an appeal in any civil case from the judgment of any court or tribunal from which, in terms of any other enactment, an appeal lies to the Supreme Court.

(2) Unless provision to the contrary is made in any other enactment, the Supreme Court shall hear and determine and shall exercise powers in respect of an appeal referred to in subsection (1) in accordance with this Act.

22 Powers of Supreme Court in appeals in civil cases

(1) Subject to any other enactment, on the hearing of a civil appeal the Supreme Court—

- (a) shall have power to confirm, vary, amend or set aside the judgment appealed against or give such judgment as the case may require;
- (b) may, if it thinks it necessary or expedient in the interests of justice—
 - (i) order the production of any document, exhibit or other thing connected with the proceedings, the production of which appears to it necessary for the determination of the case;
 - (ii) order any witness who would have been a compellable witness at the trial or proceedings to attend and be examined before the Supreme Court, whether he was or was not called at the trial or proceedings, or order the examination of any such witness to be conducted in the manner provided by rules of court before any judge of the Supreme Court or before any officer of the Supreme Court or justice of the peace or other person appointed by the Supreme Court for the purpose, and allow the admission of any deposition so taken as evidence before the Supreme Court;
 - (iii) receive the evidence, if tendered, of any witness, including any party, who is a competent but not compellable witness and, if the appellant makes application for the purpose, of the husband or wife of that party in cases where the evidence of the husband or wife could not have been given at the trial or proceedings except on such application;
 - (iv) having set aside the judgment appealed against, remit the case to the court or tribunal of first instance for further hearing, with such instructions as regards the taking of further evidence or otherwise as appear to it necessary;
 - (v) where any question arising at the appeal involves prolonged examination of documents or accounts or any scientific or local investigation which cannot, in the opinion of the Supreme Court, be conveniently conducted before that court, order the reference of the question in the manner provided by rules of court for inquiry and report to a special commissioner appointed by the Supreme Court, and act upon the report of any such commissioner so far as the Supreme Court thinks fit to adopt it;
 - (vi) appoint any person with special expert knowledge to act as an assessor in an advisory capacity in any case where it appears to the Supreme Court that such knowledge is required for the proper determination of the case;
 - (vii) issue any warrant necessary for enforcing any order or sentence of the Supreme Court;
 - (viii) make such order as to costs as the Supreme Court thinks fit;
 - (ix) take any other course which may lead to the just, speedy and inexpensive settlement of the case;
- (c) may, if it appears to the Supreme Court that a new trial or fresh proceedings should be held, set aside the judgment appealed against and order that a new trial or fresh proceedings be held.

(2) When the Supreme Court receives further evidence or gives instructions for the taking of further evidence, it shall make such order as will secure an opportunity to the parties to the proceedings to examine every witness whose evidence is taken.

23 Statement of case or question of law arising on appeal

(1) Where an appeal in any civil case involves a question of law alone, a judge of the Supreme Court may, if he thinks fit, request the parties thereto to state the question for determination by the Supreme Court.

(2) Upon a request made in terms of subsection (1) the parties shall, if they are able to agree thereon, state the question, together with all the circumstances under which that question has arisen, in such manner and within such period as may be prescribed by rules of court.

(3) If the parties are unable to agree upon the statement of the question and the circumstances under which it has arisen, they shall inform the registrar of the Supreme Court and thereupon the appeal shall be dealt with as if such request had not been made.

24 Effect of judgment of Supreme Court in civil appeals

Except as otherwise provided in any other law, judgment of the Supreme Court in any appeal in terms of this Part shall be recorded in the court or tribunal of first instance and such judgment may be enforced in all respects as if it had been given by that court or tribunal.

PART V

GENERAL

25 Review powers

(1) Subject to this section, the Supreme Court and every judge of the Supreme Court shall have the same power, jurisdiction and authority as are vested in the High Court and judges of the High Court, respectively, to review the proceedings and decisions of inferior courts of justice, tribunals and administrative authorities.

(2) The power, jurisdiction and authority conferred by subsection (1) may be exercised whenever it comes to the notice of the Supreme Court or a judge of the Supreme Court that an irregularity has occurred in any proceedings or in the making of any decision notwithstanding that such proceedings are, or such decision is, not the subject of an appeal or application to the Supreme Court.

(3) Nothing in this section shall be construed as conferring upon any person any right to institute any review in the first instance before the Supreme Court or a judge of the Supreme Court, and provision may be made in rules of court, and a judge of the Supreme Court may give directions, specifying that any class of review or any particular review shall be instituted before or shall be referred or remitted to the High Court for determination.

26 Finality of decisions of Supreme Court

(1) There shall be no appeal from any judgment or order of the Supreme Court.

(2) The Supreme Court shall not be bound by any of its own judgments, rulings or opinions nor by those of any of its predecessors.

27 Sittings of Supreme Court

The Supreme Court shall sit at such places and at such times as may be prescribed by rules of court or as directed by the Chief Justice or, in the absence of the Chief Justice, by a judge of the Supreme Court.

28 Seal of Supreme Court

The Supreme Court shall have and use as occasion may require a seal in a design approved by the President.

29 Right of person to be present at hearing of his appeal or other application

(1) A person who is not in custody shall be entitled to be present, if he so desires, at the hearing of his appeal or any application made by him to the Supreme Court.

(2) A person who is in custody, whether he is legally represented or not, shall not be entitled to be present at the hearing of his appeal or any application made by him to the Supreme Court except with the leave of a judge of the Supreme Court.

(3) The right of a person who is in custody to be present at the hearing of any matter referred to in subsection (2) shall be subject to his paying all expenses of and incidental to his transfer to and from the place where the Supreme Court sits:

Provided that a judge of the Supreme Court may direct that he be brought before the court in any case where, in the opinion of the judge, his presence is advisable, in which event such expenses shall be defrayed out of moneys appropriated for the purpose by Act of Parliament.

(4) A person who does not appear himself or who is not legally represented at any appeal or application made by him to the Supreme Court may present his case and argument in writing and any case or argument so presented shall be considered by the court.

(5) The power of the Supreme Court to pass any sentence in terms of this Act may be exercised notwithstanding that the appellant is for any reason not present.

30 Right of audience

Subject to section *twenty-nine*, the rules of court and any other law, in all proceedings before the Supreme Court the parties may appear in person or be represented and appear by any legal practitioner registered in terms of the Legal Practitioners Act [*Chapter 27:07*].

31 Proceedings in open court and in English

Except as otherwise provided in the rules of court or in any other law, all proceedings in the Supreme Court shall be carried on in open court and the pleadings and proceedings thereof shall be in the English language.

32 Administration of oaths

(1) The Supreme Court or any judge thereof may require and administer any necessary oath.

(2) The oath to be administered to any person shall be administered in the form which most clearly conveys to him the meaning of the oath and which he considers to be binding on his conscience.

33 Officers of Supreme Court

(1) There shall be a registrar of the Supreme Court and such deputy registrars, assistant registrars and other officers of the Supreme Court as may be required, whose offices shall be public offices and shall form part of the Public Service.

(2) A deputy registrar and assistant registrar shall be subject to the direction of the registrar of the Supreme Court.

34 Rules of Court

(1) Subject to subsection (4), the Chief Justice, after consultation with a committee appointed by him, may make rules of court for regulating all matters in relation to the proceedings of the Supreme Court, including any matter in respect of which rules of court may in terms of this Act be made.

(2) Rules of court made in terms of subsection (1) may provide for the following matters—

- (a) the circumstances in which any proceedings or decision may be reviewed by the Supreme Court and the remittal or reference of any matter to the High Court for review by that court;
- (b) the summary determination of any appeal or application which appears to the Supreme Court to be frivolous or vexatious or to have been brought for the purpose of delay;
- (c) the procedure, including the hearing of further evidence or the remittal of the matter, for an appeal or reference to the Supreme Court which is provided for in any enactment in so far as no procedure is expressly provided for in the enactment concerned;
- (d) the sittings of the Supreme Court and of the judges of the Supreme Court, whether sitting in court or in chambers;
- (e) all matters relating to the manner and form of procuring and adducing evidence;
- (f) the process of the Supreme Court and the issue and service thereof;
- (g) the exclusion from the proceedings of the Supreme Court of persons other than the parties thereto and their legal representatives and the circumstances in which such exclusion may take place;
- (h) the conduct and dress of persons appearing before and attending hearings of the Supreme Court;
- (i) any matters relating to the costs of proceedings in the Supreme Court and the taxation thereof;
- (j) the proof of any particular facts by affidavit in any proceedings or in any application in connection therewith at any stage of proceedings, and the examination of witness by interrogatories or otherwise, and the allowing of the same in evidence;
- (k) the appointment of commissioners to take bail and to examine witnesses, the payment of fees and allowances to such commissioners, the examination of witnesses *de bene esse*, and the allowing of the same in evidence;
- (l) the appointment of assessors in any criminal or civil case and the payment of fees and allowances to such assessors;
- (m) the fees to be paid in respect of the service or execution of any process of the Supreme Court, except subpoenas or warrants in criminal matters issued at the request of the State, or in respect of the summoning of persons to answer interrogatories;
- (n) the tariff of costs and expenses which may be allowed in respect of the service or execution of any process referred to in paragraph (1) or to persons appearing to answer interrogatories;
- (o) the tariff of fees and allowances which shall be paid to witnesses and the manner of procuring the attendance of witnesses;
- (p) the manner of determining the amount of security to be given in any case where security is required to be given and the form and manner in which such security may be given;
- (q) the hours during which the office of the registrar of the Supreme Court shall be open for the transaction of business;
- (r) the manner of recording or noting of evidence and of the proceedings in the Supreme Court;
- (s) the time within which any requirement of the rules is to be complied with and the extension of such time;
- (t) the circumstances in which an appeal shall be deemed to have been abandoned;
- (u) the condonation of the noting of an appeal out of time in special circumstances in any case where this is not expressly or by necessary implication prohibited by the enactment concerned;

- (v) the procedure, including the hearing of further evidence or the remittal of the matter, in connection with the hearing of an appeal from a decision in any court or tribunal where an enactment provides for such appeal but does not expressly provide for the procedure in connection therewith;
- (w) the tariff of fees chargeable by legal practitioners in respect of any matter relating to the Supreme Court;
- (x) generally, any matter in respect of which, in the opinion of the Chief Justice, it is necessary or desirable to make provision in order to ensure or facilitate the proper dispatch and conduct of the business of the Supreme Court and, in relation to criminal cases, for carrying the criminal law, practice and procedure into effect.

(3) In any case not covered by rules made in terms of paragraph (c) of subsection (2), the Supreme Court or judge, as the case may be, shall subject to section *six*, act in such manner and on such principles as it or he thinks best fitted to do substantial justice and to effect and carry out the objects and provisions of the enactment concerned.

(4) Rules of court shall not have effect until they have been approved by the Minister and published in a statutory instrument.

35 Regulatory power to fix fees

The Minister may make regulations providing for the fees which shall be payable in respect of instruments, services or other matters received, issued, provided or otherwise dealt with by the registrar or any other officer of the Supreme Court in the course of his duties or in the office of such officer.

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