



ZIMBABWE

ACT

To amend the Constitutional Court Act [*Chapter 7:22*]; Supreme Court Act [*Chapter 7:13*]; High Court Act [*Chapter 7:06*]; Administrative Court Act [*Chapter 7:01*]; Labour Act [*Chapter 28:01*]; the Magistrates Court Act [*Chapter 7:10*]; Criminal Procedure and Evidence Act [*Chapter 9:07*]; and to provide for matters connected with or incidental to the foregoing.

ENACTED by the Parliament and the President of Zimbabwe.

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Judicial Laws Amendment Act, 2023.

2 Interpretation

In this Act, “principal Act”, in—

- (i) Part II is a reference to the Constitutional Court Act [*Chapter 7:22*] (No. 5 of 2020);
- (ii) Part III is a reference to the Supreme Court Act [*Chapter 7:13*];
- (iii) Part IV is a reference to the High Court Act [*Chapter 7:06*];
- (iv) Part V is a reference to the Administrative Court Act [*Chapter 7:01*];
- (v) Part VI is a reference to the Labour Act [*Chapter 28:01*];

- (vi) Part VII is a reference to the Magistrates Court Act [*Chapter 7:10*].
- (vii) Part VIII is a reference to the Criminal Procedure and Evidence Act [*Chapter 9:07*].

PART II

AMENDMENTS TO CONSTITUTIONAL COURT ACT [*CHAPTER 7:22*]

3 New section inserted in Cap 7:22

The principal Act is amended by the insertion of the following section after section 9—

“9A Friend of Court

(1) The Court may allow a person with expertise in a particular matter which is before the Court to appear as a friend of the Court.

(2) Leave to appear as a friend of the Court may be granted to a person on application orally or in writing.

(3) The Court may, on its own motion, request a person with expertise to appear as friend of the Court in a matter before it.”

4 Amendment of section 10 of Cap. 7:22

Section 10 (“Sittings and vacation”) of the principal Act is amended by the insertion of the following subsection, the existing section becoming subsection (1)—

“(2) Subject to subsection (3), rules may provide for the sittings of the Court and of judges of the Court, whether sitting in court or in chambers, to be conducted by the use of any electronic or other means of communication by which all parties to the proceedings at the sitting can hear, be heard, and see and be seen, at the same time without being physically present together (hereinafter referred to as “virtual sittings”).

(3) The parties concerned must consent to their proceedings being conducted by way of a virtual sitting, but in the event that any one of the parties to a proposed virtual sitting does not consent to the virtual sitting, the Court shall have discretion to determine whether or not the sitting shall be held virtually.

(4) Rules shall make provision for the public to have access to virtual sittings.

(5) Any party who participated in a virtual sitting for which provision is made in the rules is deemed for all purposes to have been present at the sitting.”

5 Amendment of section 16 of Cap. 7:22

Section 16 (“Appointment of Registrar and officers of Court”) of the principal Act is amended by the insertion of the following subsection after subsection (2)—

“(3) The Registrar and other officers of the Court shall perform such functions and exercise such powers as may be conferred upon them by this Act and the rules.”

6 Substitution of section 22 of Cap 7:22

Section 22 of the principal Act is repealed and substituted by—

“22 Procedure for invalidation of law, etc

The Attorney-General shall be entitled to be heard by the Court on the question of whether an Act of Parliament or any conduct of the

President or Parliament is in contravention of the Constitution, whether or not the Attorney-General was a party to the proceedings in which any order of constitutional invalidity affecting such Act or conduct was made by another court.”.

7 Minor amendments to Cap. 7:22

The provisions of the principal Act specified in the first column of the Schedule are amended to the extent set out opposite thereto in the second column.

PART III

AMENDMENT TO SUPREME COURT ACT [CHAPTER 7:13]

8 Amendment of section 27 of Cap. 7:13

Section 27 (“Sittings of Supreme Court”) of the principal Act is amended by the insertion of the following subsections, and the existing section becoming subsection (1)—

“(2) Subject to subsection (3) rules of court may provide for the sittings of the Supreme Court and of judges of the Supreme Court, whether sitting in court or in chambers, to be conducted by use of any electronic or other means of communication by which all parties to the proceedings at the sitting can hear, be heard, see and be seen at the same time without being physically present together (hereinafter referred to as “virtual sittings”).

(3) The parties concerned must consent to their proceedings being conducted by way of a virtual sitting, but, in the event that any one of the parties to a virtual sitting does not consent to a virtual sitting, the court shall have discretion to determine whether or not the sitting shall be held virtually. Rules of Court for virtual sittings shall apply to both criminal and civil proceedings.

(4) Rules of the court shall ensure that the public have access to virtual sittings.

(5) A party who participated in a virtual sitting for which provision is made under the rules is taken for all purposes to have been present at the sitting.”.

PART VI

AMENDMENTS TO HIGH COURT ACT [CHAPTER 7:06]

9 Amendment of section 2 of Cap. 7:06

Section 2 (“Interpretation”) of the principal Act is amended by the insertion after the definition of “civil case” of the following definition—

““Deputy Judge President” means the Deputy Judge President of the High Court;”.

10 Insertion of new section to Cap 7:06

The principal Act is amended by the insertion of the following section after section 3—

“3A Deputy Judge President

There shall be a Deputy Judge President who will be appointed in the same way that the Judge President is appointed in terms of section 180(2), (3) and (4) of the Constitution.”.

11 Amendment of section 46A of Cap. 7:06

Section 46A (“Specialised divisions of the High Court”) of the principal Act is amended by the insertion of paragraph (d) after paragraph (c)—

- “(d) if necessary or expedient, specify the area under the jurisdiction of that division.”.

12 Amendment of section 47 of Cap. 7:06

Section 47 (“Sittings of the High Court”) of the principal Act is amended by the repeal of subsection (3) and the substitution of—

“(3) Rules of court for virtual sittings shall apply to both civil and criminal proceedings.

(4) Rules shall make provision for the public to have access to virtual sittings.”.

PART V**AMENDMENTS TO ADMINISTRATIVE COURT ACT [CHAPTER 7:01]****13 Amendment of section 12 of Cap 7:01**

Section 12 (Sittings of Court) of the principal Act is amended by the insertion of the following subsections, and the existing section becoming subsection (1)—

“(2) Subject to subsection (3) rules of court may provide for the sittings of the Administrative Court and of judges of the Administrative Court, whether sitting in court or in chambers, to be conducted by use of any electronic or other means of communication by which all parties to the proceedings at the sitting can hear, be heard, see and be seen at the same time without being physically present together (hereinafter referred to as “virtual sittings”).

(3) The parties concerned must consent to their proceedings being conducted by way of a virtual sitting, but in the event that any one of the parties to a proposed virtual sitting does not consent to the virtual sitting, the Court shall have discretion to determine whether or not the sitting shall be held virtually.

(4) Rules shall make provision for the public to have access to virtual sittings.

(5) A party who participated in a virtual sitting for which provision is made under the rules is taken for all purposes to have been present at the sitting.”.

PART VI**AMENDMENTS TO LABOUR ACT [CHAPTER 28:01]****14 Amendment of section 85 of Cap. 28:01**

Section 85 (“Qualification for appointment as President of Labour Court”) of the principal Act is repealed and substituted by—

“85 Qualifications of judges of Labour Court

The qualification of every judge of the Labour Court shall be as specified in section 179 of the Constitution.”.

15 Amendment of section 91 of Cap. 28:01

Section 91 (“Sittings of Labour Court”) of the principal Act is amended by the insertion of the following subsections, and the existing section becoming subsection (1)—

“(2) Subject to subsection (3) rules of court may provide for the sittings of the Labour Court and of judges of the Labour Court, whether sitting in court or in chambers, to be conducted by use of any electronic or other means of communication by which all parties to the proceedings at the sitting can hear, be heard see and be seen at the same time without being physically present together (hereinafter referred to as “virtual sittings”).

(3) The parties concerned must consent to their proceedings being conducted by way of a virtual sitting, but in the event that any one of the parties to a proposed virtual sitting does not consent to the virtual sitting, the Court shall have discretion to determine whether or not the sitting shall be held virtually.

(4) Rules shall make provision for the public to have access to virtual sittings.

(5) A party who participated in a virtual sitting for which provision is made under the rules is taken for all purposes to have been present at the sitting.”.

16 Amendment of section 92CC of Cap 28:01

Section 92CC (“Part-heard matters”) of the principal Act is amended by the deletion of “President” wherever it appears and substitution of “judge”.

17 Amendment of section 92F of Cap 28:01

Section 92F (“Appeals against decisions of Labour Court”) of the principal Act is amended by the deletion of “President” wherever it appears and substitution of “judge”.

PART VII

AMENDMENTS TO MAGISTRATES COURT ACT [*CHAPTER 7:10*]

18 Amendment of section 44A of Cap. 7:10

Section 44A (“Electronic Sittings of the Court”) of the principal Act is amended by the repeal of subsection (3) and the substitution of—

“(3) Rules of court for virtual sittings shall apply to both civil and criminal proceedings.”.

19 Amendment of section 51 of Cap. 7:10

Section 51 (“Special jurisdiction as to punishment”) of the Magistrates Court Act [*Chapter 7:10*] is amended by the insertion of the following subsection after subsection (5)—

“(6) Notwithstanding section 50, every magistrate shall have special jurisdiction to impose the penalties prescribed in section 60A of the Electricity Act [*Chapter 13:19*], of the Railways Act [*Chapter 13:09*]” and any other Act of Parliament wherein it is expressly provided that the court of a Magistrate shall have jurisdiction in excess of its ordinary jurisdiction.”.

PART VIII

AMENDMENTS TO CRIMINAL PROCEDURE AND EVIDENCE ACT [*Chapter 9:07*]

20 Insertion of new section Cap 9:07

The principal Act is amended by the insertion of the following section after section 194—

“194A Virtual Court Sittings

Notwithstanding section 194 or any other provision to the contrary in any law—

- (a) proceedings in any court for the remanding of an accused person (other than proceedings on initial remand) or the admission of an accused person to bail shall be done at a virtual sitting of the court by means of closed circuit television or similar electronic media, but only if facilities therefore are readily available or obtainable;
- (b) the court may, in order to ensure the fair and just conduct of proceedings in a virtual sitting as contemplated in paragraph (a), make the giving of evidence at such a sitting subject to such conditions as it may deem necessary:

Provided that the prosecutor and the accused have the right, by means of that procedure, to question a witness and to observe the reaction of that witness.”.

21 Amendment of section 193 of Cap. 9:07

Section 193 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] (hereinafter called the principal Act) is repealed and substituted by the following—

“193 Detention of persons with hearing impairment or speech impairment or both

(1) In any criminal proceedings involving an accused with hearing impairment or speech impairment or both, the State shall ensure the availability of a sign language interpreter where the accused concerned requires the services of such interpreter.

(2) In any criminal proceedings, if the court is satisfied that the accused is unable to properly conduct his or her defence by reason of hearing impairment or speech impairment or both, the court shall—

- (a) order the release of the accused person on bail; or
- (b) order the removal of the accused person from remand;

where the State has failed to ensure the availability of the sign language interpreter.

(3) Where the court has ordered the removal of the accused from remand in terms of subsection (2)(b), the State may recall the accused by way of summons to appear before the Court once the services of the sign language interpreter have been secured.”.

22 Amendment of section 246 of Cap. 9:07

Section 246 of the principal Act is repealed and substituted by the following—

“246 Incompetency from mental or intellectual impairment or intoxication

No person—

- (a) appearing or proved to be mentally or intellectually impaired; or
- (b) labouring under intoxication or otherwise;

whereby he or she is deprived of the proper use of reason, shall be competent to give evidence while under such intoxication or impairment.”.

SCHEDULE (Section 6)

MINOR AMENDMENTS TO CONSTITUTIONAL COURT ACT [CHAPTER 7:22] (No. 5 OF 2022)

<i>Provision</i>	<i>Extent of amendment</i>
Section 16(1)	By the deletion of “Commission whose” and the substitution of “Commission and whose”.
Section 19(3)	By the deletion of “in rules of Court” and the substitution of “in the rules”.
Section 22(4), 24(1) and (2)	By the deletion of “The court” and the substitution of “The Court”.
Section 25	By the deletion of “his duties” and the substitution of “his or her duties”.
Sections 26(1)(p)	By the deletion of “for purpose of delay” and the substitution of “for the purpose of delay”.
Sections 27	By the deletion of “may issue practice directives” and the substitution of “may, after consultation with the committee referred to in section 26(1), issue practice directions”.

