

## CHAPTER 7:09

# JUSTICES OF THE PEACE AND COMMISSIONERS OF OATHS ACT

*Acts 44/1975, 3/1990, 22/2001 (s. 4), 14/2002 (s. 7); R.G.N. 1135/1975.*

### ARRANGEMENT OF SECTIONS

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### **AN ACT to provide for the appointment, powers and duties of justices of the peace and commissioners of oaths; and to provide for matters incidental to or connected with the foregoing.**

[Date of commencement: 1st January, 1976.]

#### **1 Short title**

This Act may be cited as the Justices of the Peace and Commissioners of Oaths Act [*Chapter 7:09*].

#### **2 Interpretation**

In this Act—

“district” means a district into which Zimbabwe has been divided in terms of the Rural District Councils Act [*Chapter 29:13*];

“Minister” means the Minister of Home Affairs or any other Minister to whom the President may from time to time assign the administration of this Act.

#### **3 Appointment of justices of the peace**

(1) The Minister may appoint justices of the peace for Zimbabwe or for any one or more districts.

(2) The Minister may cancel any appointment made in terms of subsection (1).

(3) Every appointment or cancellation of an appointment in terms of this section shall be notified in the *Gazette*.

#### **4 Powers and duties of justice of the peace**

A justice of the peace within the area for which he has been appointed—

(a) shall possess all such powers and perform all such duties as are by law conferred or imposed upon a justice of the peace;

(b) shall have power to preserve the public peace and for that purpose may call to his aid and assistance any person to suppress disorder or disturbance and to cause, in terms of a warrant signed by him, all disturbers of peace to be lodged in the nearest or most convenient prison to be dealt with according to law.

#### **5 Prescription of actions**

Any civil action instituted against the State, a Minister or a justice of the peace in respect of anything done or omitted to be done under this Act or any other law by a justice of the peace shall be commenced within eight months after the cause of the action has arisen and notice in writing of any civil action and the grounds thereof shall be given in terms of the State Liabilities Act [*Chapter 8:14*] before the commencement of such action.

#### **6 Appointments of commissioners of oaths**

(1) The Minister may appoint commissioners of oaths for Zimbabwe or for any one or more districts.

(2) The Minister may cancel any appointment made in terms of subsection (1).

(3) Every appointment or cancellation of an appointment in terms of this section shall be notified in the *Gazette*.

## **7 Ex officio commissioners of oaths**

(1) A justice of the peace shall *ex officio* be a commissioner of oaths for the area for which he has been appointed a justice of the peace.

(2) The Minister may by notice published in the *Gazette*, designate the holder of any office as a commissioner of oaths for Zimbabwe or for any one or more districts specified in such notice and may in like manner withdraw or amend such notice.

## **8 Power to administer oaths**

A justice of the peace or commissioner of oaths may within the area for which he has been appointed administer an oath to any person:

Provided that he shall not administer an oath—

- (a) in respect of any matter in relation to which he is in terms of any regulation made under section *eleven*, prohibited from administering an oath; or
- (b) if he has reason to believe that the person in question is unwilling to make an oath.

## **9 Conferring powers as to oaths outside Zimbabwe**

(1) The Minister may by statutory instrument, declare that the holder of any office in any country outside Zimbabwe shall in the country in which or at the place at which he holds such office have the powers conferred by section *eight* upon a commissioner of oaths and may in like manner withdraw or amend any such notice.

(2) If any person referred to in subsection (1) administers an oath to any person he shall authenticate the affidavit in question by affixing thereto the seal or pressing thereon the stamp used by him in connection with his office or if he possesses no such seal or stamp he shall certify thereon to that effect.

(3) Any affidavit purporting to have been made before a person referred to in subsection (1) and to be authenticated in accordance with subsection (2) may on its mere production be admitted in evidence in any court or received in any public office.

(4) Any affidavit made before a person referred to in subsection (1) and authenticated in accordance with subsection (2) shall be as effectual as if made in Zimbabwe before a commissioner of oaths.

(5) Any court in Zimbabwe shall have jurisdiction to try any person for an offence in terms of section *ten* in relation to any affidavit made outside Zimbabwe before a person referred to in subsection (1) and for all purposes incidental to or consequential upon the trial of the offence the offence shall be deemed to have been committed within the area of jurisdiction of the court so trying any person.

## **10 Penalties**

(1) Any person who in an affidavit made before a person competent in terms of this Act to administer an oath makes a statement which he knows to be false in any particular or which he does not know or believe to be true shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(2) Any justice of the peace or commissioner of oaths who charges or demands any fee or reward for doing anything in his capacity as a justice of the peace or commissioner of oaths, as the case may be, shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(3) The Minister may suspend the appointment of a justice of the peace or commissioner of oaths against whom criminal proceedings are instituted for contravening subsection (2), and while his appointment is so suspended he shall not perform any of the functions of his office.

(4) If a justice of the peace or commissioner of oaths is convicted of contravening subsection (2), his appointment shall be deemed to have been cancelled on the date of completion of the criminal proceedings against him.

(5) If the criminal proceedings against a justice of the peace or commissioner of oaths whose appointment has been suspended in terms of subsection (2) end otherwise than in conviction the suspension shall be deemed to have been cancelled with effect from the date of the acquittal or withdrawal and he may forthwith resume the functions of his office.

(6) Nothing in this section shall be construed as limiting the Minister's powers to cancel an appointment in terms of subsection (2) of section *three* or subsection (2) of section *six*.

[Subsection 2 – 6 inserted by section 7 of Act 14 of 2002]

## **11 Regulations**

The Minister may make regulations—

- (a) prescribing the circumstances under which justices of the peace or commissioners of oaths shall be prohibited from administering an oath;
- (b) generally for the better carrying out of the objects and purposes of this Act.