

Zambia

Sheriffs Act, 1960

Chapter 37

Legislation as at 31 December 1996

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Sheriffs Act, 1960
Contents

Part I – Preliminary 1

- 1. Short title 1
- 2. Interpretation 1

Part II – Appointment of Sheriffs and other officers 1

- 3. Appointment of Sheriff, Deputy Sheriffs, etc. 1
- 4. Appointment of bailiffs 2
- 5. Declaration and security by bailiffs 2
- 6. Local limits of bailiwicks 2

Part III – Duties, etc., of Sheriffs and other officers 2

- 7. Duties of Sheriff 2
- 8. Duties of Deputy Sheriffs 2
- 9. Duties of Assistant Sheriffs 3
- 10. Duties of Under-Sheriff 3
- 11. Duties of bailiff 3
- 12. Sheriffs, etc., to be officers of court 3
- 13. Delegation of duties 3

Part IV – Miscellaneous 3

- 14. Indemnity to Sheriff 3
- 15. Protection of officers selling goods, etc. 3
- 16. Fees 4
- 17. Regulations 4
- 18. Saving of existing appointments 4
- 19. Validation of certain acts 4

Schedule (Section 5) 4

Zambia

Sheriffs Act, 1960

Chapter 37

Commenced on 7 November 1960

[This is the version of this document at 31 December 1996.]

[28 of 1960; 57 of 1964; Government Notices 303 of 1964; 497 of 1964; 7 of 1979; 3 of 1989]

An Act to make provision for the appointment of Sheriffs and other officers; to set out their respective powers and duties and the manner of the exercise thereof; and to provide for matters incidental to or connected with the foregoing.

Part I – Preliminary

1. Short title

This Act may be cited as the Sheriffs Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"**bailiwick**" means an area specified under the provisions of section six;

"**court**" means the High Court and a subordinate court;

"**judgement debtor**" means a person liable under a judgment;

"**process**" means a formal written authority issued by a court for the enforcement of a judgment, and includes a writ of attachment and sale, a writ of delivery, a writ of possession, a writ of elegit, and any warrant or order of arrest, commitment or imprisonment;

"**Sheriff**" includes Deputy Sheriff, Assistant Sheriff and Under-Sheriff;

"**writ**" includes any originating process.

Part II – Appointment of Sheriffs and other officers

3. Appointment of Sheriff, Deputy Sheriffs, etc.

(1) The Judicial Service Commission may appoint—

- (a) a Sheriff of Zambia;
- (b) Deputy Sheriffs of Zambia;
- (c) so many Assistant Sheriffs, for such area or areas, as it may think fit;
- (d) an Under-Sheriff for each District.

(2) The Judicial Service Commission may at any time appoint any person to undertake the duties of an Under-Sheriff under the provisions of this Act during the absence of such Under-Sheriff from the place in which he has his office, and whilst undertaking such duties such person shall be deemed to be an Under-Sheriff for the purposes of this Act.

[As amended by G.N. No. 303 of 1964, and Act [No. 3 of 1989](#)]

4. Appointment of bailiffs

- (1) The Judicial Service Commission may appoint such number of bailiffs for each bailiwick as it considers necessary.
- (2) Every bailiff appointed under the provisions of this section shall be deemed to be a court messenger for all the purposes of the High Court Act and of the Subordinate Courts Act.

[Cap. 27; Cap. 28]

[As amended by Act [No. 3 of 1989](#)]

5. Declaration and security by bailiffs

- (1) Every bailiff and every other person who has authority to intermeddle with the execution of writs issued by a court shall, before he does so, make a declaration, in the form set out in the Schedule or to the like effect, before a Judge or magistrate.
- (2) Every bailiff shall, if so required, give security to the satisfaction of the Sheriff for the due fulfilment of the duties of his office and for the due and punctual payment by him to the parties entitled thereto of all moneys which shall come into his hands by virtue of his office.

6. Local limits of bailiwicks

- (1) The Registrar may, by statutory notice, specify any area or areas which shall be bailiwicks, and may define the limits of such bailiwicks in such manner as he may deem sufficient.
- (2) Any notice issued under the provisions of subsection (1) may at any time be revoked or varied by a like notice.
- (3) Every notice appointing a bailiff under the provisions of subsection (1) of section four shall specify the bailiwick within which such bailiff shall exercise the powers conferred upon him by this or any other written law.

[As amended by Act [No. 3 of 1989](#)]

Part III – Duties, etc., of Sheriffs and other officers

7. Duties of Sheriff

- (1) The Sheriff shall receive all writs and process and be charged with making returns thereto as may be prescribed by rules of court.
- (2) The Sheriff shall, at the request of any person delivering a writ to him for execution, give a receipt for such writ stating the hour and the day of such delivery.
- (3) The Sheriff shall perform such other duty or duties as may be imposed upon him by any written law, or any general or specific directions of the Registrar

[As amended by Act [No. 3 of 1989](#)]

8. Duties of Deputy Sheriffs

Subject to the general or special directions of the Sheriff, Deputy Sheriffs shall be charged generally with the performance of the duties of the Sheriff and shall have the same protection as the Sheriff.

9. Duties of Assistant Sheriffs

Subject to the general or special directions of the Sheriff or of a Deputy Sheriff, Assistant Sheriffs shall, within the area for which they were appointed, be charged generally with the performance of the duties of the Sheriff and shall have the same protection as the Sheriff.

10. Duties of Under-Sheriff

Every Under-Sheriff shall, within the District for which he is appointed, receive writs and process of any court, whether within or without Zambia, and shall be charged with the service or execution thereof, as may be appropriate, and with making returns thereto, and each such Under-Sheriff shall have the same protection as the Sheriff.

11. Duties of bailiff

A bailiff shall, within the bailiwick for which he is appointed, serve writs or execute process as may be required by any written law, and shall carry out such other functions as may be required by any general or specific directions of the registrar

[As amended by Act [No. 3 of 1989](#)]

12. Sheriffs, etc., to be officers of court

The Sheriff and every Deputy Sheriff, Assistant Sheriff, Under-Sheriff and bailiff shall, in the performance of his duties in connection with any writ or process, be an officer of the court by which such writ or process was issued.

[As amended by Act [No. 3 of 1989](#)]

13. Delegation of duties

Every duty of the Sheriff in the service of writs and the execution of process may be performed by such police officer or other person as may be authorised in that behalf by the Sheriff or by the Under-Sheriff of the District in which such service or execution is to be performed, and every such officer or person who is in possession of such writ or process shall be presumed to be so authorised, and shall, for all purposes connected therewith, be an officer of the court by which such writ or process was issued.

Part IV – Miscellaneous

14. Indemnity to Sheriff

- (1) The Sheriff shall not be liable to be sued for any act or omission of any Sheriff's officer, police officer or other person in the service of any writ or the execution of any process which shall have been done, or omitted to have been done, or which may have occurred either through disobedience to or neglect of the orders or instructions given by the Sheriff.
- (2) In every case of execution, all steps which may legally be taken therein shall be taken on the demand of the party who issued such execution, and such party shall be liable for any damage arising from any irregular proceeding taken at his instance.

15. Protection of officers selling goods, etc.

- (1) Where any goods in the possession of a judgment debtor at the time of seizure by an officer are sold by such officer without any claim having been made to the same—
 - (a) the purchaser of the goods so sold shall acquire a good title to those goods; and

- (b) no person shall be entitled to recover against such officer of any person acting under his authority for any sale of such goods, or for paying over the proceeds of such sale prior to the receipt of a claim to the said goods, unless it is proved that the person from whom recovery is sought had notice or might, by making reasonable inquiry, have ascertained that the goods were not the property of the judgment debtor:

Provided that nothing in this section contained shall affect the right of any claimant who may prove that at the time of sale he had a title to any goods so seized and sold to any remedy to which he may be entitled against any person other than an officer or person acting under the authority of such officer.

- (2) For the purposes of this section, "officer" means the Sheriff, a Deputy-Sheriff, an Assistant Sheriff an Under-Sheriff, a bailiff and any other person charged with the enforcement of a writ, warrant or other process of execution.

16. Fees

- (1) Any person authorised by or under this Act to be concerned in the service of any writ or the execution of any process may demand, take and receive fees, commissions and allowances as may from time to time be fixed by the Chief Justice.
- (2) All fees, commissions and allowances demanded, taken or received under subsection (1) shall be paid into any fund created under section eight of the Finance (Control and Management) Act.

[Cap. 347]

[As amended by Act No. 3 of 1989]

17. Regulations

The Chief Justice may, by statutory instrument, make regulations for the due administration and efficient working of this Act.

[As amended by Act No. 3 of 1989]

18. Saving of existing appointments

All appointments of Under-Sheriffs and bailiffs made under the provisions of the High Court Act and in force immediately prior to the commencement of this Act shall continue in force as if such appointments had been made under the provisions of this Act.

[Cap. 27]

19. Validation of certain acts

The Deputy Registrar, District Registrars and Assistant Registrars of the High Court shall, in the performance or purported performance prior to the commencement of this Act of any of the duties of the Sheriffs, be deemed always to have been lawfully charged with the performance of such duties.

Schedule (Section 5)

Declaration by bailiff

I, A.B., do hereby solemnly and sincerely declare that I will not use or exercise the office of bailiff corruptly during the time that I shall remain therein, neither will I accept, receive or take by any colour, means or device whatsoever or consent to the taking of any manner of fee or reward of any person or persons or betwixt party and party above such fees as are allowed for the same by law, but will according to my power truly perform my duty during the time that I shall remain in the said office.

Bailiff

Taken before me this day of _____ 19 _____.

Judge or Magistrate