

Zambia

Contempt of Court (Miscellaneous Provisions) Act, 1965 Chapter 38

Legislation as at 31 December 1996

FRBR URI: /akn/zm/act/1965/32/eng@1996-12-31

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PDF created on 21 February 2024 at 16:59.

Collection last checked for updates: 31 December 1996.

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Contempt of Court (Miscellaneous Provisions) Act, 1965
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Zambia

Contempt of Court (Miscellaneous Provisions) Act, 1965

Chapter 38

Commenced on 4 June 1965

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

[32 of 1965; 32 of 1967; 13 of 1994]

An Act to amend the law relating to contempt of court and to restrict the publication of the details of certain proceedings and for purposes connected therewith.

1. Short title

This Act may be cited as the Contempt of Court (Miscellaneous Provisions) Act.

2. Innocent publication and distribution of any matter calculated to interfere with the course of justice

- (1) A person shall not be guilty of contempt of court on the ground that he has published any matter calculated to interfere with the course of justice in connection with any proceedings pending or imminent at the time of publication if at that time (having taken all reasonable care) he did not know and had no reason to suspect that the proceedings were pending, or that such proceedings were imminent, as the case may be.
- (2) A person shall not be guilty of contempt of court on the ground that he has distributed a publication containing such matter as is mentioned in subsection (1) if at the time of distribution (having taken all reasonable care) he did not know that it contained any such matter as aforesaid and had no reason to suspect that it was likely to do so.
- (3) The proof of any fact tending to establish a defence afforded by this section to any person in proceedings for contempt of court shall lie upon that person.

3. Publication of information relating to court proceedings in private

- (1) The publication of information relating to proceedings before any court sitting in private shall not of itself be contempt of court except in the following cases, that is to say:
 - (a) where the proceedings relate to the wardship or adoption of an infant or wholly or mainly to the guardianship, custody, maintenance or upbringing of an infant, or rights of access to an infant;
 - (b) where the proceedings are brought under the law for the time being in force in Zambia with respect to the control, care or detention of, or to the estates and property of, mentally disordered or defective persons;
 - (c) where the court sits in private for reasons of national security during that part of the proceedings about which the information in question is published;
 - (d) where the information relates to a secret process, discovery or invention which is in issue in the proceedings;
 - (e) where the court (having power to do so) expressly prohibits the publication of all information relating to the proceedings or of information of the description which is published;
 - (f) where the proceedings are an appeal under the law with respect to income tax.

- (2) Without prejudice to subsection (1), the publication of the text or a summary of the whole or part of an order made by a court sitting in private shall not of itself be contempt of court except where the court (having power to do so) expressly prohibits the publication.
- (3) In this section, references to a court include references to a Judge or magistrate and to a tribunal and to any person exercising the functions of a court, a Judge or a tribunal; and references to a court sitting in private include references to a court sitting *in camera* or in chambers.
- (4) Nothing in this section shall be construed as implying that any publication is punishable as contempt of court which would not be punishable apart from this section.

[As amended by No. 32 of 1967]

4. Restriction on publication of matrimonial proceedings

- (1) It shall not be lawful to print or publish or cause or procure to be printed or published—
 - (a) in relation to any judicial proceedings, any indecent matter or indecent medical, surgical or physiological details being matter or details the publication of which would be calculated to injure public morals;
 - (b) in relation to any judicial proceedings for dissolution of marriage, for nullity of marriage, or for judicial separation, or for restitution of conjugal rights, any particulars other than the following, that is to say:
 - (i) the names, addresses and occupations of the parties and witnesses;
 - (ii) a concise statement of the charges, defences and countercharges in support of which evidence has been given;
 - (iii) submissions on any point of law arising in the course of the proceedings, and the decisions of the court thereon;
 - (iv) the judgment of the court and observations made by the Judge or magistrate in giving judgment:

Provided that nothing in this paragraph shall be held to permit the publication of anything contrary to the provisions of paragraph (a).

- (2) If any person contravenes any provision of subsection (1), he shall be guilty of an offence and shall be liable on conviction to imprisonment for six months, or to a fine not exceeding fifteen thousand penalty units, or to both:

Provided that no person, other than a proprietor, editor, master printer or publisher, shall be liable to be convicted under this section.

- (3) No prosecution for an offence under this section shall be commenced by any person without the written consent of the Director of Public Prosecutions.
- (4) Nothing in this section shall apply to the printing of any pleading, transcript of evidence or other document for use in connection with any judicial proceedings or the communication thereof to persons concerned in the proceedings, or to the printing or publishing of any notice or report in pursuance of the directions of the court, or to the printing or publishing of any matter in any separate volume or part of any *bona fide* series of law reports which does not form part of any other publication and consists solely of reports of proceedings in courts of law, or in any publication of a technical character *bona fide* intended for circulation among members of the legal or medical profession.

[As amended by Act No. 13 of 1994]

5. Appeals

- (1) Subject to the provisions of this section, an appeal shall lie under this section from any order or decision of a court in the exercise of jurisdiction to punish for contempt of court (including criminal contempt); and in relation to any such order or decision, the provisions of this section shall have effect in substitution for any other written law relating to appeals in civil or criminal proceedings.
- (2) An appeal under this section shall lie in any case at the instance of the person against whom the order or decision has been made and, in the case of an applicant for committal or attachment, at the instance of the applicant; and the appeal shall lie—
 - (a) from the order or decision of any subordinate court, to the High Court;
 - (b) from an order or decision of the High Court, to the Supreme Court.
- (3) The court to which an appeal is brought under this section may exercise any of the powers conferred upon it in relation to the hearing and determining of appeals generally by the Criminal Procedure Code or Supreme Court of Zambia Act, and without prejudice to the inherent powers of any court referred to in subsection (2), provision may be made by rules of court for authorizing the release on bail of an appellant under this section.

[Cap. 88; Cap. 25]

- (4) Without prejudice to the provisions of this Act, an appeal under this section shall be lodged and prosecuted in compliance with the provisions of the Criminal Procedure Code or the Supreme Court of Zambia Act, as appropriate.

[Cap. 88; Cap. 25]

- (5) In this section, "court" includes any tribunal or person having power to punish for contempt; and references in this section to an order or decision of a court in the exercise of jurisdiction to punish for contempt of court includes references to an order or decision of the High Court or a subordinate court under any enactment enabling that court to deal with an offence as if it were contempt of court.
- (6) This section shall not apply to a conviction or sentence in respect of which an appeal lies under the Criminal Procedure Code.

[Cap. 88]