

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT No. 10 of 2024

The Criminal Procedure Code
(Laws, Volume 7, Cap. 88)

**The Criminal Procedure Code (Economic and Financial
Crimes Court) Rules, 2024**

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IN EXERCISE of the powers contained in section 358A of the Criminal Procedure Code, the following Rules are made:

PART I

PRELIMINARY PROVISIONS

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| 1. (1) These Rules may be cited as the Criminal Procedure Code (Economic and Financial Crimes Court) Rules, 2024. | Title and commencement |
| (2) These Rules shall come into operation on 1st March, 2024. | |
| 2. In these Rules, unless the context otherwise requires— | Interpretation |
| “corruption” has the meaning assigned to the word “corrupt” in the Anti-Corruption Act, 2012; | Act No. 3. of 2012 |
| “Court” means— | |
| (a) the Economic and Financial Crimes Division of the High Court established under the Economic and Financial Crimes (Division of Court) Order, 2022; and | S.I. No. 5 of 2022 |
| (b) the Economic and Financial Crimes Division of the Subordinate Courts established under the Subordinate Courts Act. | Cap. 30 |
| “economic and financial crime” has the meaning assigned to the words in the Economic and Financial Crimes (Division of Court) Order, 2022; | S.I. No. 5 of 2022 |
| “legal representative” has the meaning assigned to the word “practitioner” in the Legal Practitioners Act; and | Cap. 28 |
| “statement” has the meaning assigned to the word in the Evidence Act. | Cap. 43 |

PART II

HEARING AND DETERMINATION OF MATTER

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| 3. (1) The Court shall, subject to this rule hear and determine a matter before the Court within five months from the date on which plea is taken or an appeal is filed. | Duration of proceedings |
| (2) Despite sub-rule (1), the Court may, where the Court considers it necessary, on application by a party or at the Court’s instance, extend the period specified in sub rule (1) except that the extension granted by the Court shall not exceed forty-five days. | |

(3) Where a Court does not dispose of a matter within the period specified in sub-rule (1), the judge or magistrate presiding over the matter shall render a report, in the case of—

(a) a judge, to the judge in charge of the Economic and Financial Crimes Division of the High Court; or

(b) a magistrate, to the Chief Registrar.

(4) The report referred to in sub-rule (3) shall contain the following:

(a) the reasons for the delay in disposing of the matter; and

(b) where the matter is pending—

(i) hearing, the directions given to the parties; or

(ii) delivery of judgment, the new date given to the parties on which the judgment shall be delivered.

PART III

PROCEEDINGS

Filing of charge, list of witnesses and documents

4. The prosecution shall, at the time of filing a charge, file—

(a) a list of witnesses to be called by the prosecution at trial;

(b) witness statements; and

(c) a list and copies of documents to be relied on at trial.

Service of documents

5. (1) The prosecution shall, within fourteen days of filing the documents referred to under rule 4, serve the documents on the accused person or the accused person's legal representative.

(2) The prosecution shall, within two days of serving the documents under sub-rule (1), file an affidavit of service.

(3) The prosecution shall effect service of a document on an accused person who is not in custody by physically delivering the documents to the accused person or the accused person's legal representative.

(4) A document or witness statement which has not been served in accordance with sub-rules (1) and (3) may not be relied on at trial.

(5) A person not named in a list of witnesses shall not testify at trial.

(6) Despite sub-rules (4) and (5), the prosecution may, with leave of the Court—

- (a) disclose a document or witness statement at any stage before the close of the prosecution’s case, if the Court is satisfied that the document or witness statement was not available at the time of the filing of that document under rule 4; or
- (b) amend a list of witnesses or call an additional witness.

(7) Where the Court allows disclosure of a document or filing of a witness statement under sub-rule (6), the Court may adjourn the matter to give the accused person or the accused person’s legal representative an opportunity to examine the document or witness statement.

6. (1) Subject to these Rules, the Court shall, within seven days after the expiration of the period specified for filing of an affidavit of service under rule 5(2), summon the parties to a pre-trial conference.

Pre-trial
conference

(2) At the pre-trial conference, the Court shall—

- (a) where applicable, confirm whether the consent to prosecute has been obtained from the Director of Public Prosecutions;
- (b) issue directions with respect to the date on which the accused person shall—
 - (i) take plea; or
 - (ii) file objections to the charge, if any;
- (c) confirm whether the prosecution has complied with rules 4 and 5;
- (d) establish whether the accused person has legal representation;
- (e) determine whether the accused person is a child;
- (f) establish whether the accused person is on bail or intends to apply for bail;
- (g) assess whether the accused person is able to stand trial and make a defence;
- (h) determine whether the accused person intends to raise a defence of autrefois acquit or autrefois convict;

- (i) determine whether there is need for interpreters, audio visual conferencing or other facilities or services during trial;
- (j) confirm the number of counts in the charge;
- (k) confirm the number of witnesses that the prosecution intends to call at the trial;
- (l) determine the approximate amount of time the prosecution's case shall take;
- (m) establish issues relating to admissibility of evidence;
- (n) in consultation with the parties, set a time-table for the progress of the matter;
- (o) where parties request, allow the parties to plea bargain within a period that the Court considers appropriate; and
- (p) deal with any other issues that the Court considers necessary for the expedient determination of the matter.

(3) A Court shall, on conclusion of the pre-trial conference, issue directions, which shall include—

- (a) the date of commencement of trial; and
- (b) length of the prosecution's case.

Disclosure by
defence

7. (1) Where an accused person found with a case to answer intends to lead evidence in the accused person's defence, that accused person or the accused person's legal representative shall within fourteen days from the date of the accused person being found with a case to answer, by way of disclosure file a document that the accused person intends to rely on.

(2) An accused person shall, within two days of—

- (a) filing the document referred to in subrule (1) by way of disclosure, serve the document on the prosecution; and
- (b) service of the document on the prosecution in accordance with paragraph (a), file an affidavit of service.

(3) A document that has not been disclosed in accordance with sub-rule (2) shall not be relied on at trial by the defence.

(4) Despite sub-rule (3), an accused person found with a case to answer may, with leave of the Court, rely on a document not disclosed in accordance with sub-rule (2), if the Court is satisfied that—

- (a) the document was not available at the time of the disclosure referred to under sub-rule (1); or
- (b) it is in the interest of justice to allow the disclosure of the document.

(5) Where the Court allows disclosure of a document under sub-rule (4), the Court may adjourn the matter to give the prosecution an opportunity to examine the document.

8. (1) Subject to these Rules, the Court shall, within seven days after the expiration of the period specified for filing of an affidavit of service under rule 7(2)(b), summon the parties to a pre-defence conference.

Pre-defence
conference

(2) At the pre-defence conference, the Court shall—

- (a) establish whether the accused person has complied with rule 7;
- (b) establish the number of witnesses that the accused person intends to call;
- (c) determine the approximate amount of time the accused person's case shall take;
- (d) establish the issues relating to admissibility of evidence;
- (e) in consultation with the parties, set a time table for the progress of the case;
- (f) where parties request, allow the parties to plea-bargain within a period that the Court considers appropriate; and
- (g) deal with any other issue that the Court considers necessary for the expedient determination of the matter.

(3) A Court shall at the conclusion of the pre-defence conference, issue directions which shall include—

- (a) the date of commencement of the accused person's case; and
- (b) the length of the accused person's case.

PART IV
GENERAL PROVISIONS

Abridgment and extension of time	9. The Court may, on application by a party or, where the circumstances permit, at the Court's instance, abridge or extend the time specified in these Rules for taking any step in connection with the proceedings.
Adjournment	10. An application for an adjournment shall not be granted except in compelling and exceptional circumstances.
Conduct of proceedings	11. The Court shall conduct the proceedings in a manner that respects due process and fair trial rights of the parties at all times.
Appeals on interlocutory applications	12. (1) An appeal shall not lie against a decision of a Court arising from an interlocutory application. (2) Despite sub-rule (1), a party may on appeal against a judgement of a court raise any issue that may have arisen during the course of proceedings.
Audio visual conferencing	13. (1) The Court may, on an application by a party or at the Court's instance, order that a witness or accused person attend proceedings or give evidence through audio visual conferencing. (2) Despite sub-rule (1), an application by a party shall be made within reasonable time before the witness is due to testify.
Submissions	14. The parties may, within a period that the Court may direct, file written submissions in relation to an issue or matter for determination by the Court.
Custody of exhibits	15. The Court may, on application by a party or at the Court's instance, make an order that an exhibit be kept at a place other than the Court premises, as shall be specified in the order.
Quarterly returns	16. (1) The Registrar or Clerk of Court shall prepare and submit quarterly returns to the judge-in-charge or the magistrate in charge, for onward transmission to the Chief Justice. (2) The quarterly returns submitted under sub-rule (1) shall indicate— (a) the total number of economic and financial crime or corruption cases brought before the Court for trial; (b) the number of persons convicted or acquitted of each type of economic and financial crime or corruption case; (c) the number of cases concluded and the manner that each was concluded; and

(d) any other issue which may need to be brought to the attention of the Chief Justice in relation to the cases dealt with by the Court during the quarter.

(3) In this rule, unless the context otherwise requires—

“Registrar” means the Registrar of the High Court or a person assigned to perform the functions of Registrar of the High Court; and

“clerk of court” has the meaning assigned to the words in the Subordinate Courts Act.

Cap. 28

17. Any proceeding or appeal pending immediately before the commencement of these Rules shall be deemed to have commenced under, and continued in accordance with these Rules.

Savings and transitional provision

M. MALILA,
Chief Justice

LUSAKA
22nd January, 2024

