

## **CHAPTER 37**

### **THE SHERIFFS ACT**

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## CHAPTER 37

SHERIFFS	28 of 1960
	57 of 1964
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.	<i>Government Notices</i>
	303 of 1964
	497 of 1964
[7th November, 1960]	7 of 1979
	3 of 1989

## PART I

### PRELIMINARY

1. This Act may be cited as the Sheriffs Act. Short title
  
2. In this Act, unless the context otherwise requires- Interpretation

"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. (1) The Judicial Service Commission may appoint-

Appointment of Sheriff, Deputy Sheriffs, etc.

(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. (1) The Judicial Service Commission may appoint such number of bailiffs for each bailiwick as it considers necessary.

Appointment of bailiffs

(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. (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. Declaration and security by bailiffs

(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. (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. Local limits of bailiwicks

(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. (1) The Sheriff shall receive all writs and process and be charged with making returns thereto as may be prescribed by rules of court. Duties of Sheriff

(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.** 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. Duties of Deputy Sheriffs

**9.** 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. Duties of Assistant Sheriffs

**10.** 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. Duties of Under-Sheriff

**11.** 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 Duties of bailiff

*(As amended by Act No. 3 of 1989)*

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

*(As amended by Act No. 3 of 1989)*

**13.** Every duty of the Sheriff in the service of writs and the execution of process may be performed by such police officer or other Delegation of duties

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.** (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.

Indemnity to  
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.** (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-

Protection of  
officers selling  
goods, etc.

(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.** (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. Fees

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

*(As amended by Act No. 3 of 1989)*

**18.** 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. Saving of existing appointments  
Cap. 27

**19.** 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. Validation of certain acts

## 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*

**SUBSIDIARY LEGISLATION**

SHERIFFS

CAP. 37

**SECTION 6 -ESTABLISHMENT OF BAILIWICKS**

Government Notice  
191 of 1963

Notice by the Sheriff

The Sheriff hereby specifies the areas set out in the first column of the Schedule to be bailiwicks designated by the respective names set out in the second column of the Schedule, and hereby defines the limits of the said bailiwicks as conterminous with the limits of the administrative district or districts comprising the areas set out in the first column of the Schedule.

SCHEDULE

<i>Area of bailiwick</i>	<i>Designation of bailiwick</i>
bombwe District .. .. .	The Chingola District and the Chilila- The Chingola bailiwick.
The Kabwe Urban District and the Kabwe Rural District .. ....	The Kabwe bailiwick.
The Kitwe District and the Kalulushi	



District.. .. The Kitwe bailiwick.  
 The Ndola Urban District and the Ndola  
 Rural District .. .... The Ndola bailiwick.  
 Each other administrative district .. . . . The designation of that district.

**SECTION 16-THE SHERIFF'S FEES AND ALLOWANCES ORDER**

**Order by the Chief Justice**

Statutory Instrument  
 28 of 1972  
 236 of 1977  
 60 of 1978  
 Act  
 13 of 1994

1. This Order may be cited as the Sheriffs' Fees and Allowances Order. Title
  
2. The fees and allowances payable to a Sheriff or to any officer of the Sheriff concerned in the service of any writ or the execution of any process shall be as set out in the Schedule. Fees and allowance
  
3. When the Sheriff or any officer of the Sheriff concerned in the service of any writ or the execution of any process cannot reasonably be expected to effect the service and thereafter return to his office within a period of twelve hours, the fees and allowances fixed by this Order shall not be payable unless the court has, on the application of the party on whose behalf the service is to be effected, given necessary directions as to the manner in which the service shall be effected. Directions of court necessary in certain circumstances

*SCHEDULE*

*(Paragraph 2)*

**FEES AND ALLOWANCES PAYABLE TO SHERIFFS AND OFFICERS OF SHERIFFS**

	Fee units
(1) For an arrest .. .. .	13
(2) For a seizure .. .. .	13
(3) For travelling allowance to effect an arrest or a seizure, per kilometre .. .. .	.. .. .

- (4) For a man or, when necessary, men in possession, the sum actually and reasonably paid.
- (5) For the removal of goods or animals to a place of safe-keeping when necessary and for warehousing or taking charge of the same when removed, the sum actually and reasonably paid.
- (6) For advertising and giving publicity to a sale, printing catalogues, bills and notices and distributing and posting the same, the sum actually and reasonably paid.
- (7) On a sale under writ or warrant, 5 per centum of the amount realised or of the amount due under the writ or warrant, whichever is the less.
- (8) For commission to the auctioneer on a sale, to include inventory and valuation, compiling catalogue and preparing for sale, 10 per centum of the amount realised or of the amount due under the writ or warrant, whichever is the less.
- (9) Where execution is withdrawn, satisfied or stopped after seizure but before sale, 21/2 per centum of the amount due under the writ or warrant.
- (10) For commission to the auctioneer where execution is withdrawn, satisfied or stopped after he has been instructed to sell, to include inventory, valuation, compiling catalogue and preparing for sale, 5 per centum of the amount due under the writ or warrant.
- (11) For service (other than by registered post or advertisement), of any writ or other process of the court-

A. Not more than 4.83 kilometres from the office of the serving officer .. .. . 6

B. More than 4.83 kilometres from such office-

(a) fee .. .. . 6

(b) actual out of pocket expenses (other than sustenance), which may include-

- (i) railway fares;
- (ii) use of a pedal cycle, at the rate of one fee unit per kilometre;
- (iii) use of an auto-cycle, moped or motor cycle, at the rate of one fee unit per kilometre, calculated in total to the nearest unit above a fraction;
- (iv) use of a motor vehicle (other than an auto-cycle, moped or motor cycle), at the rate of one fee unit per kilometre;

i(v) use or hire of boats or canoes, at the current local rate;

(c) a sustenance allowance at the rate of ten fee units for the first twelve hours and ten fee units for each successive complete period of twelve hours and ten fee units for any incomplete period of twelve hours thereafter, during which the serving officer is employed in the service of a particular process.

(12) In any case where a court has directed that service shall be effected by registered letter or advertisement, the provisions herein as to fees, expenses and allowances shall not apply and the cost of advertisement

shall be allowable by the party paying the same.  
(As amended by Act No. 236 of 1977 and No. 13 of 1994)