

Uganda

Executive Committees (Judicial Powers) Act Chapter 8

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Uganda

Executive Committees (Judicial Powers) Act Chapter 8

Commenced on 22 January 1988

[This is the version of this document at 31 December 2000.]

[Note: The version of the Act as at 31 December 2000 was revised and consolidated by the Law Reform Commission of Uganda. All subsequent amendments have been researched and applied by Laws.Africa for ULII.]

[Repealed by [Local Council Courts Act, 2006 \(Act 13 of 2006\)](#) on 8 June 2006]

An Act to provide for the judicial powers of executive committees, to establish executive committees as courts, define their jurisdiction, powers and procedure and for other purposes connected therewith.

Interpretation

1. Interpretation

In this Act, unless the context otherwise requires—

- (a) “**advocate**” has the meaning ascribed to it by the Advocates Act;
- (b) “**chairperson**” means the chairperson of an executive committee;
- (c) “**chief**” means chief within the meaning of the Local Governments Act;
- (d) “**chief magistrate**” has the meaning ascribed to it by the Magistrates Courts Act;
- (e) “**court**” means the executive committee court established under [section 2](#);
- (f) “**customary law**” means the rules of conduct established by custom and long usage having the force of law and not forming part of the common law nor formally enacted in any legislation;
- (g) “**executive committee**” and “**local government council**” have the meanings ascribed to them under the Local Governments Act;
- (h) “**language of the court**” means the language that the court may determine to be its language;
- (i) “**Minister**” means the Minister responsible for the judiciary;
- (j) “**sign**” and “**countersign**” shall include affixing a thumbmark or a mark; and
- (k) “**village**”, “**parish**” and “**subcounty**” mean “**village**”, “**parish**” and “**subcounty**” within the meaning of the Local Governments Act.

Establishment of executive committee courts

2. Establishment of executive committee courts

The executive committees in every village, parish, and subcounty are established as courts.

3. Composition of executive committee courts

An executive committee court shall consist of the members of the executive committee of the village, parish or subcounty.

4. Sitting of the court

- (1) An executive committee court shall be duly constituted by the members of the executive committee, not being less than five, sitting for the hearing of a case.
- (2) The chairperson of the executive committee shall preside at all sittings of the court and in his or her absence the vice chairperson shall preside.
- (3) In the absence of both the chairperson and the vice chairperson, the members present shall elect one from among themselves to preside.
- (4) Where a quorum cannot be realised, the executive committee shall co-opt on the panel of the court such number of members of the local government council of the same area as to enable the court to realise a quorum.
- (5) Every question arising before the court shall be determined by consensus and in default of a consensus shall be determined by a majority vote of the members sitting.
- (6) Where determination of a question is by voting, the chairperson shall not have an original vote, but in case of an equality of votes he or she shall have a casting vote.
- (7) The court may, when it thinks fit, summon to its assistance a witness to give expert evidence on any matter where the court may need such evidence.

Jurisdiction

5. Jurisdiction

- (1) Subject to this Act and any other written law, every court shall have jurisdiction for the trial and determination of—
 - (a) causes and matters of a civil nature specified in the First Schedule to this Act;
 - (b) causes and matters of a civil nature governed only by customary law and specified in the Second Schedule to this Act;
 - (c) causes and matters arising out of infringement of byelaws duly made under the Local Governments Act.
- (2) In any suit relating to causes and matters specified in the First and Second Schedules—
 - (a) the jurisdiction of the court shall in respect of causes and matters specified in Part 1 of the First Schedule be restricted to causes and matters where the value of the subject matter in dispute does not exceed five thousand shillings; and
 - (b) the jurisdiction of the court in respect of causes and matters specified in Part 2 of the First Schedule and in the Second Schedule shall not be restricted by the monetary value of the subject matter in dispute.
- (3) In any suit relating to causes and matters specified in Part 2 of the First Schedule and in the Second Schedule, where the court awards compensation exceeding five thousand shillings, the court shall refer the case to the chief magistrate of the area for purposes of execution of the order, and the chief magistrate may if he or she finds that the judgment award is grossly excessive reduce the amount of the award taking into account awards in similar cases.

6. Special criminal jurisdiction of village committee courts in relation to children

- (1) Subject to the Children Act, a village executive committee court shall, in addition to the jurisdiction provided in [section 5](#), have the jurisdiction specified in this section.

- (2) All causes and matters of a civil nature concerning children shall be dealt with by the village executive committee court where the child resides or where the cause of action arises.
- (3) A village executive committee shall have criminal jurisdiction to try a child for any of the following offences—
 - (a) affray under section 79 of the Penal Code Act;
 - (b) an offence against section 167 of the Penal Code Act with the exception of subsection (1)(b) of that Act;
 - (c) common assault, under section 235 of the Penal Code Act;
 - (d) actual bodily harm under section 236 of the Penal Code Act;
 - (e) theft, under section 254 of the Penal Code Act;
 - (f) criminal trespass, under section 302 of the Penal Code Act;
 - (g) malicious damage to property, under section 335 of the Penal Code Act.
- (4) The village executive committee court shall be the court of first instance in respect of the criminal offences specified in subsection (3) involving children.
- (5) A village executive committee court may, notwithstanding any penalty prescribed by the Penal Code Act in respect of the offences specified in subsection (3), make an order for any of the following reliefs—
 - (a) reconciliation;
 - (b) compensation;
 - (c) restitution;
 - (d) apology; and
 - (e) caution.
- (6) In addition to the reliefs under subsection (5), the court may make a guidance order under which the child shall be required to submit himself or herself to the guidance, supervision, advice and assistance of a person designated by the court.
- (7) A guidance order shall be for a maximum period of six months.
- (8) An executive committee court shall not make an order remanding a child in custody in respect of any child appearing before the court.
- (9) Proceedings in respect of a child appearing before an executive committee court shall be in accordance with the procedure laid down by this Act having due regard to the rights of the child.

7. Where to institute suits

- (1) Every suit shall be instituted in a court within the local limits of whose jurisdiction—
 - (a) the defendant at the time of the commencement of the suit actually resides; or
 - (b) where the cause of action wholly or in part arises.
- (2) In case of a dispute over immovable property, a suit shall be instituted in a court within the local limits of whose jurisdiction the property is situate.
- (3) Subject to subsections (1) and (2), every suit shall be instituted in the court of the lowest grade competent to try and determine it.

8. Objections to jurisdiction

Where a defendant objects to the jurisdiction of the court, the case shall, if the objection is upheld, be referred to a higher court; and if the objection is rejected the court shall record the objection and its reasons for rejecting it, and proceed with the trial of the case.

9. Powers of court

The court may make an order for any one or more of the following reliefs—

- (a) reconciliation;
- (b) declaration;
- (c) compensation;
- (d) restitution;
- (e) costs;
- (f) apology;
- (g) attachment and sale, and in a case of infringement of byelaws may impose a fine or any other penalty authorised by the byelaws.

10. Institution of civil proceedings

- (1) Every civil suit shall be instituted by stating to the chairperson orally or in writing the nature of the claim against the defendant and the relief sought by the claimant.
- (2) Every such claim shall be signed by the claimant, but if made orally shall be reduced into writing by the chairperson or a person appointed by him or her for that purpose, and when so reduced in writing shall be read to the claimant and shall be signed by the claimant and countersigned by the chairperson.
- (3) The chairperson shall file the statement of claim and shall fix a date for the hearing of the case and convene the court for the purpose.

11. Notice of claim to be served on parties

- (1) On filing the statement referred to in [section 10](#), the chairperson shall cause a notice of the claim to be served upon the defendant.
- (2) The chairperson shall cause summons to be served on the claimant and the defendant requiring them to attend the court at the time and place specified in the summons for the hearing of the case, and the summons shall be substantially as set out in Form A of the Third Schedule to this Act.
- (3) The chairperson may cause the claimant or defendant to be summoned orally by informing him or her that he or she is so summoned; but the person who shall so orally inform the claimant or defendant shall be accompanied by a witness for that purpose.
- (4) Where it is not practicable to effect personal service of the summons or notice in the manner provided in subsections (1), (2) and (3), service of the summons or notice may be made on the claimant or defendant, with leave of court—
 - (a) by leaving the duplicate of the summons or notice for him or her with an adult member of his or her family or with any other adult person ordinarily residing with him or her; or
 - (b) by affixing the duplicate of the summons or notice to some conspicuous part of the house or homestead in which the person summoned ordinarily resides,and thereupon the summons or notice shall be deemed to have been duly served.

12. Institution of proceedings in respect of breach of byelaws

- (1) Proceedings in respect of breach of byelaws referred to in [section 5\(1\)\(c\)](#) may be instituted by either a chief or a person appointed by a local government council for the purpose of enforcing byelaws, by lodging a complaint with the chairperson either orally or in writing.
- (2) The chairperson, upon receiving the complaint and on being satisfied that *prima facie* a breach or infringement of a byelaw has been disclosed and that the complaint is not frivolous or vexatious, shall draw up or cause to be drawn up a charge sheet containing particulars of the person accused and the date, place and nature of the alleged breach or infringement, and the charge sheet shall be read to the complainant and shall be dated and signed by the complainant and countersigned by the chairperson.
- (3) Where a charge sheet has been drawn, the chairperson shall issue summons to compel the attendance of the accused person before the court on a date specified in the summons and shall convene the court for the purpose of hearing the case.

13. Witness summons

- (1) The court may serve a summons on any person requiring his or her attendance before the court or requiring him or her to bring to the court for the purpose of evidence all documents, writings or things in his or her possession or power which may be specified or otherwise sufficiently described in the summons.
- (2) The witness summons shall be substantially as set out in Form B of the Third Schedule to this Act.
- (3) The chairperson may cause a witness to be summoned in the manner provided under [section 11\(3\)](#) for summoning a claimant or defendant.

14. Representation by nominee

- (1) Where the party is unable to appear in court due to mental or physical incapacity, the court may, on being satisfied that a person has been nominated by that party or is in charge of that party or his or her property, allow the person to represent him or her in court.
- (2) For the avoidance of doubt, no party to proceedings before an executive committee court may be represented by an advocate except in proceedings dealing with infringement of byelaws.

15. Appearance by a corporation

Appearance before a court by a corporation shall be by an officer of the corporation or any other person appointed by the corporation for that purpose.

16. Language of court, etc.

- (1) Subject to subsection (2), the proceedings of the court and the records of the proceedings shall be in the language of the court.
- (2) Where any of the parties does not understand the language of the court, the court shall provide an interpreter.

17. Record of court proceedings

- (1) In every case the court shall keep a record of its proceedings in writing, and every such record shall contain the following particulars and documents—
 - (a) in proceedings relating to civil cases—
 - (i) the serial number of the case;

- (ii) the statement of claim;
 - (iii) the date of hearing of the case;
 - (iv) the names and addresses of the claimant and his or her witnesses;
 - (v) the names and addresses of the defendant and his or her witnesses;
 - (vi) a brief description of the case;
 - (vii) the documentary exhibits, if any;
 - (viii) the judgment or final orders of the court and the date of the judgment or final orders;
 - (ix) the date of payment of the judgment debt, if any;
 - (x) the particulars of execution of the judgment, if any; and
- (b) in proceedings in respect of a breach of a byelaw—
- (i) the serial number of the case;
 - (ii) the complaint;
 - (iii) the charge sheet;
 - (iv) the date of hearing of the case;
 - (v) the plea of the accused person;
 - (vi) the names and addresses of witnesses;
 - (vii) documentary exhibits, if any;
 - (viii) the finding, and where evidence has been adduced the judgment embodying the substance of the evidence and the date of the judgment; and
 - (ix) the sentence or other final orders of the court and the date of the sentence or other final orders of the court,

but at the hearing of any case in the subcounty executive committee court whether sitting as an original or appellate court a summary of the evidence given by each person shall be recorded separately.

- (2) Subject to this Act, a court shall hear every case before it expeditiously and without undue regard to technical rules of evidence or procedure; but in exercising its jurisdiction, the court shall be guided by the principle of impartiality without fear or favour and shall adhere to the rules of natural justice, and in particular shall ensure that—
- (a) each party is given opportunity to be heard;
 - (b) each party is accorded ample opportunity to call witnesses and to adduce such other evidence as he or she requires to support his or her case; and
 - (c) any member of the court who directly or indirectly has an interest of whatever nature in issue in dispute is disqualified from hearing the case.

18. Court to be open, etc.

- (1) The court shall sit for the hearing of cases during the hours of daylight.
- (2) The court shall be an open court to which the public generally may have access so far as it can conveniently contain them; but a court may, if it deems it necessary, at any stage of the trial of any case involving domestic relations, order that the public generally or any particular person shall not have access to or be or remain in the room, building or place used by the court.

19. Parties to be informed of their right to appeal

After delivering its decision, the court shall inform the parties of their right to appeal.

20. *Res judicata*

No court shall try any suit or issue in which the matter directly and substantially in issue has been heard and finally determined in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, by a court competent to try such suit or issue.

Remedies**21. Compensation**

Subject to [section 5](#), where the court decides to award compensation it shall order the defendant to give such property or cash as the court may deem to be the equivalent of the complainant's property or right which was damaged, lost or injured.

22. Restitution

Where the court makes an order for restitution, the defendant shall return the property in question to the person entitled to it.

23. Attachment and sale, warrant, etc.

- (1) Where the court orders execution of a judgment by attachment and sale of any property, the court shall order the attachment and sale of only the property belonging to the judgment debtor and shall give the debtor notice of the order.
- (2) A sale of property under this section shall, subject to subsection (3), be by public auction, conducted by such person as the court may appoint.
- (3) The following persons shall not be eligible to bid for any property under sale effected under this section—
 - (a) a person conducting the sale;
 - (b) a member of the executive committee whether or not he or she was a member of the court which heard the case or ordered the sale; and
 - (c) a member of the household or a business partner of the person conducting the sale or a member of the executive committee.
- (4) A warrant of attachment and sale issued under this Act shall be substantially as set out in Form C of the Third Schedule to this Act.

24. Restriction on attachments and sales

- (1) The court shall not order the attachment and sale of a judgment debtor's property without first giving the judgment debtor an opportunity to give reasons for failure to pay.
- (2) The court shall not order the attachment and sale of the property of an incorporated company unless the company is itself the judgment debtor.
- (3) The court shall not order the attachment and sale of the property of a partnership without due notice being given to all the partners.

25. Application of proceeds of sale

Where a sale has been effected under [section 23](#), the proceeds of sale shall be applied to satisfy the costs of the sale, if any, and the judgment debt; and the balance, if any, shall be given to the owner of the property sold.

26. Where debtor has no property

Where the judgment debtor has no property for attachment and sale for satisfaction of the judgment debt and the court is of the opinion that the judgment debtor is otherwise able to pay but has deliberately refused or neglected to pay the judgment debt, the court shall refer the judgment debtor to the chief magistrate of the area with recommendations that the judgment debtor be committed to civil custody.

27. Stay of execution

- (1) No order shall be made for execution of a judgment or order of the court until the period allowed for lodging appeal under this Act has expired without an appeal being lodged.
- (2) Where an appeal is lodged, the lodging of the appeal shall operate as a stay of execution until final disposal of the appeal; but the court with which the appeal was lodged may on application of the judgment creditor order for execution to proceed if in the opinion of the court further stay of execution would defeat the ends of justice.

Appeals

28. Appeals

- (1) A party dissatisfied with the judgment or order of a court may, subject to this section or any written law appeal against the judgment or order; but no appeal shall lie from a judgment or order passed or made as a result of the consent of the parties.
- (2) An appeal shall lie—
 - (a) from the judgments and orders of a village executive committee court to a parish executive committee court;
 - (b) from the judgments and orders of a parish executive committee court to a subcounty executive committee court;
 - (c) from the judgments and orders of a subcounty executive committee court to a court presided over by a chief magistrate;
 - (d) from decrees and orders made on appeal by a chief magistrate, with the leave of the chief magistrate or of the High Court, to the High Court.
- (3) Leave to appeal under subsection (1)(d) shall not be granted except where the intending appellant satisfies the chief magistrate or the High Court that the decision against which an appeal is intended involves a substantial question of law or is a decision appearing to have caused a substantial miscarriage of justice.
- (4) For the purposes of subsection (3), an application for leave to appeal shall, in the first instance, be made to the chief magistrate within thirty days from the date of the decision sought to be appealed from, and an application to the High Court for such leave shall be made within fourteen days from the date on which the application is refused by the chief magistrate.

29. Lodging of appeal

- (1) An appeal from the village, parish or subcounty executive committee court shall be lodged within fourteen days from the date of the judgment or order appealed against, and an appeal from the

chief magistrate's court shall be lodged within fourteen days from the date leave to appeal is granted.

- (2) Every appeal shall be presented in a memorandum signed by the appellant, setting forth the grounds of appeal, and shall be substantially as set out in Form D of the Third Schedule to this Act.
- (3) The appellate court shall cause a notice of the memorandum of appeal to be served on the respondent, which notice shall be substantially as set out in Form E of the Third Schedule to this Act.

30. Witnesses in appellate court, etc.

On the application of either party to an appeal, or on its own motion, an appellate court may, if in its opinion it would be in the interests of justice to do so, call such witnesses and receive such additional evidence as it may in its discretion determine or may hear the case de novo.

31. Powers of appellate court

- (1) Upon hearing an appeal, the appellate court may dismiss the appeal on the ground that the decision appealed from did not occasion any miscarriage of justice or may allow the appeal.
- (2) Where the appellate court allows an appeal, it may—
 - (a) reverse or vary the decision appealed from;
 - (b) subject to the limit provided for in this Act or any other written law, increase or reduce the amount of compensation awarded or the fine imposed by the lower court; or
 - (c) substitute any order or a combination of orders set out in [section 9](#) for an order or orders made by the lower court.

Miscellaneous

32. Chief magistrate's supervisory powers

The general powers of supervision over magistrates courts conferred upon the High Court by the Judicature Act may be exercised by the High Court over the executive committee courts.

33. Protection of committee members

- (1) No member of the court shall be liable to be sued in any court for any act done by him or her in the discharge of his or her judicial functions whether or not within the limits of his or her jurisdiction if he or she, at the time, in good faith, believed himself or herself to have jurisdiction to do the act complained of.
- (2) No officer of the court or other person bound to execute its lawful orders or warrants shall be liable to be sued in any court in respect of any lawful act done in the execution of any such order or warrant.

34. Amendment of Schedules

The Minister may, by statutory order, amend any Schedule to this Act.

35. Regulations

The Minister may, by statutory instrument, make regulations generally for better carrying out the purposes of this Act, and without prejudice to the generality of the foregoing—

- (a) determining costs to be awarded under this Act;

- (b) prescribing fees required to be paid under this Act;
- (c) prescribing the oath to be subscribed by members of the courts established under this Act and the oath to be taken by witnesses; and
- (d) except as otherwise specifically provided in this Act, prescribing the procedure to be followed by the courts at the hearing of any case.

36. Transitional provision

No court shall proceed with the trial of any suit or proceeding in which the matter in issue is also directly and substantially in issue in a previously instituted suit or proceeding between the same parties, or between parties under whom they or any of them claim, litigating under the same title, where such suit or proceeding is pending in any other court having original or appellate jurisdiction in Uganda to grant the relief claimed.

37. Delegation of powers

- (1) The chairperson may delegate any or all the powers and duties conferred upon him or her by this Act to the vice chairperson or in the absence of the vice chairperson to any member of the executive committee.
- (2) Where the chairperson is absent or for any reason is unable to exercise or perform the powers or duties conferred upon him or her by this Act, the vice chairperson may exercise or perform those powers or duties.

38. Consequential amendment

Notwithstanding section 207 of the Magistrates Courts Act, the jurisdiction of a chief magistrate for the trial and determination of the causes and matters specified in Part 2 of the First Schedule to this Act shall be unlimited.

First Schedule (Section 5)

Civil disputes triable by executive committee courts

Part 1

- 1. Debts
- 2. Contracts
- 3. Assault and/or battery

Part 2

- 1. Conversion and/or damage to property
- 2. Trespass

Second Schedule (Section 5)

Civil disputes governed by customary law triable by executive committee courts

- 1. Land disputes relating to customary tenure

2. Disputes concerning marital status of women
3. Disputes concerning paternity of children
4. Disputes concerning identity of customary heirs
5. Impregnating of a girl under 18 years of age
6. Elopement with a girl under 18 years of age
7. Customary bailment

Third Schedule (Sections 11, 13, 23, 29)

Forms

Republic of Uganda

Form A

Summons and Hearing Notice

The Executive Committees (Judicial Powers) Act

In the _____ court of _____

Case No. _____ of 20 ____

_____ ,

Claimant

versus

_____ ,

Defendant

To: _____

Whereas the above-named claimant has instituted a suit against the above-named defendant for

You are required to appear in this court on the _____ day of _____, 20 ____ at ____ a.m./p.m.
and to bring your witnesses with you.

If no appearance is made by you or by a person authorised by law to act for you, the case may be heard and
decided in your absence.

Dated this _____ day of _____, 20 ____.

Chairperson

Form B

Witness Summons

The Executive Committees (Judicial Powers) Act

In the _____ court of _____

Case No. _____ of 20 ____

versus

To: _____

 Your attendance is required as a witness on behalf of the _____ in the above suit. You are required to appear before this court on the _____ day of _____, 20 _____ at _____ a.m./p.m. and to bring with you

Dated this _____ day of _____, 20 ____.

Chairperson

Form C***Warrant of Attachment and Sale of Property******The Executive Committees (Judicial Powers) Act***

In the _____ court of _____

Case No. _____ of 20 ____

Claimant

versus

Defendant

To: _____

 Whereas _____ was ordered by a judgment of this court passed on the _____ day of _____, 20 ____

in the above case to pay to the sum of shs. _____.

And whereas this sum has not been paid, you are ordered to attach the following property of the judgment debtor:

1. _____

2. _____

3. _____

Unless he/she pays to you the sum set forth above, you are ordered to sell that property in execution of the judgment or so much of it as will realise that sum.

You are ordered to return this warrant on or before the _____ day of _____, 20 ____, with an endorsement certifying the manner in which it has been executed or the reason why it has not been executed.

Dated this _____ day of _____, 20 ____.

Chairperson

**Delete as appropriate.*

Form D

Memorandum of Appeal

The Executive Committees (Judicial Powers) Act

In the _____ court of _____

Case No. _____ of 20 ____

_____, Appellant

versus

_____, Respondent

(Appeal from a judgment/decree/order* of the court of _____ at _____ dated _____

in Case No. _____ of 20 ____).

_____, the above-named appellant appeals to the court of _____ against the whole/part* of the above-mentioned decision on the following grounds, namely:

1. _____
2. _____, etc.

It is proposed to ask the court for an order that:

Appellant

Lodged with the chairperson of the appellate court at _____ on the _____ day of _____, 20 ____.

Chairperson of the Appellate Court

**Delete as appropriate.*

Form E

Title

The Executive Committees (Judicial Powers) Act

In the _____ court of _____

Case No. _____ of 20 ____

_____,

Appellant

versus

_____ ,

Respondent

Take notice that _____, being dissatisfied with the decision of the court of _____ given at _____ on _____ 20 ____, intends to appeal to the court against the whole of the decision the following parts of the decision, namely*

1. _____

2. _____,

etc.

Dated this ____ day of _____, 20 ____.

Chairperson of the Appellate Court

To: _____

**Delete as appropriate.*