

**THE SUPREME COURT OF ZAMBIA
(AMENDMENT) BILL, 2016**

MEMORANDUM

The object of this Bill is to amend the Supreme Court of Zambia Act so as to provide for—

- (a) the jurisdiction of the Supreme Court to hear appeals from the Court of Appeal; and
- (b) matters connected with, or incidental to, the foregoing.

L. KALALUKA,
Attorney-General

N.A.B. 19, 2016
20th April, 2015

A BILL

ENTITLED

An Act to amend the Supreme Court of Zambia Act.

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Supreme Court of Zambia (Amendment) Act, 2016, and shall be read as one with the Supreme Court of Zambia Act, in this Act referred to as the principal Act.

Title

Cap. 25

5 2. Section *two* of the principal Act is amended by the insertion, in the appropriate place, of the following definition:

Amendment of section 2

“Court of Appeal” means the Court of Appeal established under Article 130 of the Constitution;

Cap. 1

10 3. Section *four* of the principal Act is amended by the deletion of the words “or a final decision in the exercise of its original jurisdiction”.

Amendment of section 4

4. Section *seven* of the principal Act is amended by the deletion of the words “or original”.

Amendment of section 7

5. The principal Act is amended by the repeal of section *twelve*.

Repeal of section 12

15 6. The principal Act is amended by the repeal of section *fourteen*.

Repeal of section 14

7. The principal Act is amended by the repeal of section *fifteen* and the substitution therefor of the following:

Repeal and replacement of section 15

20 15. (1) The Court shall allow an appeal against conviction on the following grounds:

Determination of appeals

(a) the conviction, in all the circumstances of the case, is unsafe or unsatisfactory;

N.A.B. 19, 2016

(b) the conviction is based on a wrong decision on a question of law; or

(c) there was a material irregularity in the course of the trial.

(2) Despite subsection (1), where the Court is of the opinion that the point raised in the appeal might be decided in favour of the appellant, the Court may dismiss the appeal if it considers that no miscarriage of justice has actually occurred.

(3) The Court shall, if it allows an appeal against conviction, quash the conviction and direct a judgment and verdict of acquittal to be entered or, if the interests of justice so require, order a new trial.

(4) The Court may, on an appeal, whether against conviction or sentence, substitute a judgment of guilty for such other offence as the trial court could have entered and, in the case of an appeal from a judgment of the Court of Appeal, the Court shall, in addition, have power to restore the conviction of the trial court.

(5) The Court may, on an appeal, whether against conviction or sentence, increase or reduce the sentence, impose such other sentence or make such other order as the trial court could have imposed or made, except that—

(a) in no case shall a sentence be increased by reason or in consideration of evidence that was not given at the trial; and

(b) the Court shall not interfere with a sentence just because if it were a trial court it would have imposed a different sentence, unless the sentence is wrong in principle or comes to the Court with a sense of shock.

Repeal and
replacement
of section 17

8. The principal Act is amended by the repeal of section *seventeen* and the substitution therefor of the following:

Time for
appealing

17. (1) A person who intends to appeal against a judgment of the Court of Appeal shall give a notice of intention to appeal within fourteen days of obtaining leave of the Court of Appeal in the manner and form prescribed by rules of the Court of Appeal.