
BILLS

SUPPLEMENT No. 11

23rd August, 1991.

BILLS SUPPLEMENT*to the Uganda Gazette No. 37 Volume LXXXIV dated 23rd August, 1991.*Printed by the Government Printer, Entebbe, by Order of the Government.

THE RESISTANCE COMMITTEES (JUDICIAL POWERS) (AMENDMENT) BILL, 1991.**MEMORANDUM**

The purpose of this Bill is to amend the Resistance Committees (Judicial Powers) Statute, 1988 in order to harmonise the hierarchical relationship between Resistance Committee Courts and Magistrates Courts.

The Bill also seeks to rationalise and make better provisions regarding the jurisdiction of Sub-County, Division and Town Resistance Committee Courts and to transfer the functions of Magistrates Grades II and III to these Courts so as to enhance their efficiency and effectiveness.

DR. G. W. KANYEIHAMBA,
Minister of Justice/Attorney-General.

A BILL for a Statute

ENTITLED

**THE RESISTANCE COMMITTEES (JUDICIAL
POWERS) (AMENDMENT) STATUTE, 1991.**

A Statute to amend the Resistance Committees (Judicial Powers) Statute, 1988 in order to harmonise the relationship between Resistance Committee Courts and Magistrates Courts; to rationalise and make better provisions relating to the jurisdiction of Resistance Committee Courts; to confer criminal jurisdiction on Sub-County, Division and Town Resistance Committee Courts and to provide for other related matters.

BE IT ENACTED by the President and the National Resistance Council as follows :

1. This Statute may be cited as the Resistance Committees (Judicial Powers) (Amendment) Statute, 1991, shall be read as one with the Resistance Committees (Judicial Powers) Statute, 1988, in this Statute referred to as "the principal Statute" and shall come into force on such date as the Minister may, by statutory instrument, appoint.

Short title.

Statute
No. 1 of
1988.

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Amend-
ment of
section 1.

2. Section 1 of the principal Statute is replaced with the following section—

“Establi-
shment of
Resistance
Committee
Courts.

1. Each of the following Resistance Committees is hereby empowered to perform judicial functions in accordance with this Statute and is hereby established as a Court—

- (a) a Village Resistance Committee;
- (b) a Parish or Ward Resistance Committee;
- (c) a Sub-County, Division or Town Resistance Committee.”

Amend-
ment of
section 2.

3. Section 2 of the principal Statute is replaced with the following section—

“Composi-
tion of
Resistance
Committee
Courts.

2. (1) Subject to this Statute, every Resistance Committee Court shall consist of all the members of the Resistance Committee in relation to which it is established.

(2) The members and officers of a court shall be paid such allowances as the Minister may, after consultation with the Principal Judge, determine.

(3) The Secretary to a Resistance Committee or, in the case of a Sub-County, Division or Town Resistance Committee Court, a clerk of court who, on the commencement of this Statute holds such office in a Magistrate’s Court or a person appointed to hold such office, shall perform the functions of a clerk of court and shall be under the immediate control and direction of the person presiding over the court.”

Amend-
ment of
section 3.

4. Section 3 of the principal Statute is amended—

(a) by adding the following subsections after subsection (6)—

“(7) Subject to the provisions of this Statute regarding the quorum of a Resistance Committee Court—

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(a) all decisions, before or after judgment, to be made by a court shall be made only by the Chairman and the members of the court who were present throughout the hearing of the evidence relating to the particular decision to be made; and

(b) the judgment of a court shall be made by the Chairman and only those members of the court who were present throughout the hearing of the evidence relating to the case.

(8) Notwithstanding any other provision of this Statute, the following provisions shall apply to a Sub-County, Division or Town Resistance Committee Court in the exercise of its criminal jurisdiction—

(a) the quorum shall consist of the Chairman or other member presiding, a Magistrate Grade II or III who shall be a member of the Court and not less than three other members of the Sub-County, Division or Town Resistance Committee;

(b) a Magistrate referred to in paragraph (a) shall, in addition to being a member of the Court, be the Secretary to the Court and shall advise the Court on all matters of law."

5. Section 4 of the principal Statute is replaced with the following new section—

Amendment of section 4.

"Jurisdiction of Resistance Committee Courts.

4. (1) Subject to the provisions of this Statute and of any other written law, the following provisions shall apply in relation to the jurisdiction of Resistance Committee Courts—

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- (a) a Village Resistance Committee Court shall be the only court having original civil jurisdiction under this Statute and shall have jurisdiction for the trial and determination of causes and matters of a civil nature to the extent set out in the First Schedule to this Statute and for the trial and determination of the infringement of bye-laws made by any Resistance Council;
- (b) a Parish or Ward Resistance Committee Court shall have only appellate jurisdiction to hear and determine appeals from the decisions and orders of a Village Resistance Committee Court;
- (c) a Sub-County, Division or Town Resistance Committee Court shall have appellate jurisdiction to hear and determine appeals from the decision and orders of a Parish or Ward Resistance Committee Court.

(2) In addition to its appellate jurisdiction, a Sub-County, Division or Town Resistance Committee Court shall have jurisdiction to try such offences under any law as are provided for in Part 2 of the First Schedule to this Statute unless it is provided that such offence is triable only by a superior court; and to hear and determine cases of infringement of bye-laws made by a Sub-County, Division or Town Resistance Council and may impose—

- (a) in respect of an offence other than the infringement of bye-laws, a fine not exceeding Shs. 10,000 or imprisonment not exceeding two years or both such fine and imprisonment;

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Act No. 13
of 1970.

(b) in respect of an infringement of bye-laws, any penalty prescribed for such infringement; or

(c) in respect of an offence committed by a male person under the age of sixteen years for which he would, but for his age, have been otherwise liable to imprisonment and, subject to the provisions of section 191 of the Magistrates Courts Act, 1970, a penalty of corporal punishment not exceeding six strokes in addition to or in substitution of any other punishment to which he is liable:

Provided that no sentence of corporal punishment may be imposed in default of payment of a fine.

(3) Section 190 of the Magistrates Courts Act, 1970 shall apply to the treatment of young offenders convicted by a Sub-County, Division or Town Resistance Committee Court in the same manner as it applies to Magistrates Courts.

(4) An appeal shall lie from the decisions, judgments and orders of a Sub-County, Division or Town Resistance Committee Court to a court presided over by a Chief Magistrate and the provisions of section 216 of the Magistrates Courts Act, 1970 shall apply to such appeal.

(5) A Chief Magistrate may order the transfer of any proceedings from a Resistance Committee Court to another court of equal or superior jurisdiction and, for this purpose, the provisions of subsections (1) and (2) of section 40 and sections 229 and 230 of the Magistrates Courts Act, 1970 shall, as far as practicable, apply to the transfer in the same manner as

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they apply to the transfer of criminal or civil proceedings between Magistrates' Courts and the High Court.

(6) Except as otherwise provided in this Statute, no Magistrate's Court shall have jurisdiction to hear and determine any matter which a Resistance Committee Court has jurisdiction to hear and determine.

(7) Nothing in this section shall be construed as derogating from the power of a court to hear and determine a charge of contempt of court in respect of any matter before it or in respect of its own proceedings, order or judgment but no penalty imposed under this sub-section shall exceed a fine of Shs. 10,000 or imprisonment for three months."

Amend-
ment of
section 5.

6. Section 5 of the principal Statute is replaced with the following section—

"Where to
institute
suits.

5. Every suit shall be instituted in the first instance in a Village Resistance Committee Court, if that court has jurisdiction in the matter, within the area of whose jurisdiction—

- (a) the defendant at the time of the commencement of the suit actually resides; or
- (b) where the cause of action in whole or in part arises; or
- (c) in the case of a dispute over immovable property, the property is situate."

Amend-
ment of
section 6.

7. Section 6 of the principal Statute is amended by replacing the words "a higher court" with the words "a Court having jurisdiction to hear and determine the case."

Amend-
ment of
section 7.

8. Section 7 of the principal Statute is amended—

- (a) by renumbering the section as section 7 (1) and by replacing the words "the Court may make

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an order for any one or more of the following reliefs” with the words “Without prejudice to any other powers, a court may make an order for any one or more of the following reliefs—”; and

(b) by adding the following subsections after subsection (1)—

“(2) Where a Sub-County, Division or Town Resistance Committee Court convicts a person of an offence and on obtaining information about his character and antecedents the court is of the opinion that they are such that greater punishment should be imposed for the offence than the court has power to impose, the court may, instead of dealing with him in any other manner, commit him in custody for sentencing by a court presided over by a Magistrate Grade I having jurisdiction to impose such greater sentence :

Provided that the Magistrate may, if he considers that the conviction is improper or illegal and notwithstanding any such committal, set aside the conviction and also may, pending such decision, release the accused person on bail or order his continued remand in custody.

(3) Where an accused person has been committed for sentence under the provisions of subsection (2)—

(a) the warrant of the committing court shall be sufficient authority to the officer-in-charge of any prison for his detention in custody; and

(b) the record of any proceedings including the written charge and the admission of the accused person, if any, shall be transmitted without delay by the committing court to the Magistrate having jurisdiction.”

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Amend-
ment of
section
10A.

9. The principal Statute is amended by inserting after section 10 the following new section—

"Institu-
tion of
criminal and
similar pro-
ceedings.

10A. Criminal proceedings before a Resistance Committee Court shall be instituted in the following manner—

- (a) if the proceedings relate to the breach of a bye-law made by a Resistance Council subordinate to a Sub-County, Division or Town Resistance Council, they shall be instituted, in the first instance, in the Village Resistance Committee Court or, in the case of the infringement of a bye-law made by a Sub-County, Division or Town Resistance Council, in a Sub-County, Division or Town Resistance Committee Court having jurisdiction over the area within which the infringement of the bye-law occurred;
- (b) in the case of any other offence, in the Sub-County, Division or Town Resistance Committee Court having jurisdiction over the area within which the offence was committed;
- (c) in any other case where there is doubt as to the area or place where the offence was committed or if the offence was committed in more than one area, the proceedings shall be instituted in any Village Resistance Committee Court or Sub-County, Town or Division Resistance Committee Court, as appropriate, of the area where the person accused is found to be immediately before the institution of such proceedings;

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(d) the provisions of Part IV of the Magistrates Courts Act, 1970 relating to the institution of criminal proceedings or proceedings for the infringement of bye-laws shall also apply to the institution of criminal proceedings in a Sub-County, Division or Town Resistance Committee Court."

10. Section 12 of the principal Statute is amended by replacing subsection (2) with the following—

Amend-
ment of
section 12.

"(2) In any criminal proceedings or proceedings for the infringement of bye-laws, and in no other proceedings, an accused person shall be permitted to be represented by an advocate."

11. Section 14 of the principal Statute is amended—

Amend-
ment of
section 14.

(a) in subsection (1) by replacing the words "the provisions of subsection (2)" with the words "the provisions of subsections (2) and (3)"; and

(b) by adding after subsection (2) the following subsection—

"(3) The record of proceedings in a Sub-County, Division or Town Resistance Committee Court shall be in English."

12. Section 26 of the principal Statute is amended in subsection (2)—

Amend-
ment of
section 26.

(a) by adding in paragraph (b) the word "Ward" after the word "Parish"; and

(a) by adding in paragraph (c) the words "Division or Town" after the word "Sub-County".

13. Section 33 of the principal Statute is amended by renumbering that section as 33 (1) and by adding thereafter the following subsection—

Amend-
ment of
section 33.

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“(2) Until regulations under subsection (1) regulating the procedure and other matters in Sub-County, Division or Town Resistance Committee Courts are made, without prejudice to the provisions of subsection (2) of section 15 which provide for dispensing with undue regard to technical rules of evidence or procedure—

(a) criminal proceedings before a Sub-County, Division or Town Resistance Committee Court shall be conducted in accordance with the law governing criminal procedure and evidence in Magistrates’ Courts insofar as it is not inconsistent with this Statute;

(b) civil proceedings before a Sub-County, Division or Town Resistance Committee Court shall be conducted in accordance with the Civil Procedure Rules in the Third Schedule to the Magistrates Courts Act, 1970 insofar as those Rules are not inconsistent with this Statute and as if those Rules had not been repealed by the Magistrates Courts (Amendment) Statute, 1991.”

Replace-
ment of
section 35.

14. Section 35 of the principal Statute is replaced with the following section—

“Functions
of Vice-
Chairman
and Chair-
man’s
powers to
delegate.

35. Subject to subsections (1), (2) and (3) of section 3—

(a) where the Chairman is absent or is, for any reason, unable to perform his functions, the Vice-Chairman may perform those functions;

(b) the Chairman may delegate any of his functions to any member of the Resistance Committee.”

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15. Section 36 of the principal Statute is repealed. Repeal section 36.

16. Section 37 of the principal Statute is amended in the definition "Village", "Parish" and "Sub-County" by inserting after the word "Sub-County" the words "Ward", "Division" and "Town". Amendment of section 37.

17. The First Schedule to the principal Statute is replaced with the following-- Replacement of First Schedule.

"FIRST SCHEDULE

PART I

**CASES AND MATTERS OF A CIVIL NATURE
WHICH MAY BE TRIED BY A VILLAGE
RESISTANCE COMMITTEE COURT s. 4(1).**

- | | | |
|--|---|--------------------------------------|
| <ul style="list-style-type: none"> 1. Debts 2. Contracts 3. Assault or assault
and battery 4. Conversion 5. Damage to property 6. Trespass | } | Claim not exceeding
Shs. 100,000. |
|--|---|--------------------------------------|

7. All civil disputes governed only by customary law in the following matters and without limitation as to the value of the claim:

- (a) disputes in respect of land held under customary tenure;
- (b) disputes concerning marriage, marital status, separation, divorce or the parentage of children;
- (c) disputes relating to succession or inheritance of deceased persons;
- (d) the liability of a man, other than the husband, for making a girl under the age of eighteen years, pregnant;

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- (e) elopement with a girl under the age of eighteen years;
- (f) customary bailment.

PART II

**OFFENCES WHICH ARE TRIABLE BY
SUB-COUNTY, DIVISION OR TOWN
RESISTANCE COMMITTEE COURTS s. 4(4).**

(1) All criminal offences in respect of which the maximum penalty prescribed by law does not exceed a fine of Shs. 20,000 or imprisonment for three years or both unless, in any particular case, it is provided by law that the offence is triable only by a court superior to a Sub-County, Division or Town Resistance Committee Court.

(2) An infringement of a bye-law made by a Sub-County, Division or Town Resistance Council.”