

THE JUDICATURE (AMENDMENT) ACT, 2002

ARRANGEMENT OF SECTIONS

Section.

1. Short title.
2. Amendment of section 6 of Statute No. 13 of 1996.
3. Replacement of section 38 of Statute No. 13 of 1996.
4. Amendment of section 19 of Statute No. 13 of 1996.

An Act to amend the Judicature Statute, 1996 to provide for the right of the Director of Public Prosecutions to appeal to the Supreme Court for a declaratory judgement, to provide for judicial review or scrutiny of administrative decisions, to cater for the inherent power of the High Court to prevent abuse of its process and to prevent unnecessary delays in trials; and for other related matters.

DATE OF ASSENT: 2nd January, 2002.

Date of commencement: 15th February, 2002.

BE IT ENACTED by Parliament as follows:

1. Short title

This Act may be cited as the Judicature (Amendment) Act, 2002.

2. Amendment of section 6 of Statute No. 13 of 1996

The Judicature Statute, 1996, in this Act referred to as the “Statute” is amended in subsection (1) of section 6, by substituting for paragraph (*d*) the following new paragraph—

“(*d*) where the Court of Appeal has confirmed the acquittal of an accused by the High Court, the Director of Public Prosecutions may appeal to the Supreme Court for a declaratory judgement on a matter of law of great public importance”.

3. Replacement of section 38 of Statute No. 13 of 1996

The Statute is amended by substituting for section 38 the following new section—

38. “Judicial review

(1) The High Court may upon application for judicial review, grant any one or more of the following reliefs in a civil or criminal matter—

(*a*) an order of mandamus requiring any act to be done;

(*b*) an order of prohibition, prohibiting any proceedings or matter;

(*c*) an order of certiorari; removing any proceedings or matter into the High Court;

(*d*) an injunction to restrain a person from acting in any office in which he or she is not entitled to act;

(*d*) a declaration or injunction not being an injunction referred to in paragraph (*d*) of this subsection.

(2) The Court may upon any application for judicial review, in addition to or in lieu of any of the reliefs specified in subsection (1), award damages.

(3) The High Court may grant an application for a declaration or an injunction under paragraph (e) of subsection (1) if it considers that having regard to—

(a) the nature of the matters in respect of which relief may be granted by way of an order of mandamus, prohibition or certiorari;

(b) the nature of the persons and bodies against whom relief may be granted by way of an order referred to in paragraph (a); and

(c) all the circumstances of the case,

it would be just and convenient for the declaration or injunction to be granted on an application for judicial review.

(4) On an application for judicial review as mentioned in subsection (1), any relief may be claimed as an alternative or addition to any other relief so mentioned, if it arises out of or relates to or is connected with the same matter.

(5) No order of mandamus, prohibition or certiorari shall be made in any case in which the High Court is empowered, by the exercise of the powers of review or revision contained in this or any other enactment, to make an order having the like effect as the order applied for or where the order applied for would be rendered unnecessary.

(6) No return shall be made to any order made under this section and no pleadings in prohibition shall be allowed and subject to any right of appeal, the order shall be final.

(7) An application for judicial review shall be made promptly and in any case within three months from the date when the ground of the application arose, unless the Court has good reason for extending the period within which the application shall be made”.

4. Amendment of section 19 of Statute No. 13 of 1996

The Statute is amended by substituting for subsection (2) of section 19 the following new subsection—

“(2) With regard to its own procedures and those of the Magistrates’ Courts, the High Court shall exercise its inherent powers—

- (a) to prevent abuse of process of the court by curtailing delays, in trials and delivery of judgement including the power to limit and discontinue delayed prosecutions;
- (b) to make orders for expeditious trials;
- (c) to ensure that substantive justice shall be administered without undue regard to technicalities”.