

LEGAL ALERT

ESTABLISHMENT OF THE ECONOMIC AND FINANCIAL CRIMES COURT



Introduction

On the 7th of January 2022, the new Chief Justice of the Republic of Zambia, Honourable Dr. Justice Mumba Malila S.C established a new Division of the High Court, namely, the Economic and Financial Crimes Court (“**EFCC**”) pursuant to the Economic and Financial Crimes (Division of Court) Order 2022, Statutory Instrument No. 5 of 2022 (“**SI No. 5**”).

The Chief Justice’s Power to Establish a Division of the High Court

The Constitution of Zambia empowers the Chief Justice to constitute specialised divisions of the High Court to hear specific matters. This constitutional power is equally reflected in the High Court Act which provides that the Chief Justice may prescribe specialised courts by statutory instrument. Effectively, the Chief Justice exercised powers legally bestowed on him when he established the EFCC through SI No. 5 as discussed above.

Jurisdiction

With regard to jurisdiction, that is to mean, the matters that are triable

and can be heard by the EFCC, SI No. 5 provides that the EFCC shall, in addition to the jurisdiction of the Court under the Constitution, hear and determine matters relating to economic and financial crimes and corruption.

In digesting the jurisdiction of the EFCC above, it is cardinal to note that the EFCC as a specialised court is established solely for purposes of adjudicating upon matters relating to economic and financial crimes and corruption. Suffice to state that SI No. 5 also confers powers generally vested in the High Court under the Constitution on the EFCC. To avoid any doubt, these powers are:

- (i) unlimited and original jurisdiction in civil and criminal matters;
- (ii) appellate and supervisory jurisdiction, as prescribed; and
- (iii) jurisdiction to review decisions, as prescribed.

It is noteworthy the fact that the jurisdiction in (i) above only extend to criminal matters owing to the fact that the EFCC is from the face of it a criminal court as it is vested with authority to hear matters relating to economic and financial crimes

and corruption all of which are criminal in nature. Put differently, the EFCC does not have civil jurisdiction as it focuses on criminal offences aforesaid.

As far as appellate and supervisory jurisdiction is concerned as in (ii) above, it remains to be seen how this will be actualised especially that the provision adds the phrase “as prescribed” which entails that there may be subsequent rules or regulations that may prescribe the appellate and supervisory jurisdiction of the EFCC. The same can be said for the jurisdiction to review decisions highlighted in (iii).

Number of Judges

This subject is equally within the powers of the Chief Justice. SI No. 5 provides that the EFCC shall consist of a Judge or such number of Judges as the Chief Justice may determine. The foregoing essentially implies that it is within the discretionary power of the Chief Justice to determine the number of Judges to adjudicate or hear a matter before the EFCC.

Conclusion

The establishment of the EFCC is yet another positive milestone in the Zambian legislative framework. Through proper implementation, the EFCC can achieve successes of similar earlier established specialised courts such as the Commercial Court, Industrial Relations Court and the Family Court which have in the recent past expedited the litigation process in their respective jurisdictions in Zambia.

This alert contains general information and should not be construed as legal advice or opinion or as a substitute for the advice of counsel.

Stay Updated.



We hope you found this Alert useful. Please contact our Dispute Resolution and Public Policy Partner and Lawyer, Sydney Chisenga at SChisenga@corpus.co.zm and John Chulu at JChulu@corpus.co.zm respectively, if you have any questions or require guidance relating to the establishment of the Economic and Financial Crimes Court.

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