

S T A T U T O R Y I N S T R U M E N T S

2011 No. 41.

THE JUDICATURE (RECONCILIATION) RULES, 2011.

ARRANGEMENT OF RULES.

Rule

1. Title.
2. Application.
3. Interpretation.
4. Commencement of reconciliation proceedings.
5. Appointment of reconciliator.
6. Functions of reconciliator.
7. Procedure.
8. Reconciliation.
9. Reconciliation report.
10. Duration of proceedings.

SCHEDULE.

SCHEDULE—Provisions of the Penal Code Act providing for offences for possible reconciliation.

STATUTORY INSTRUMENTS

2011 No. 41.

The Judicature (Reconciliation) Rules, 2011.

(Under section 41 of the Judicature Act, Cap. 13)

IN EXERCISE of the powers conferred upon the Rules Committee by section 41 of the Judicature Act Cap. 13, these Rules are made this 18th day of April, 2011.

1. Title.

These Rules may be cited as the Judicature (Reconciliation) Rules, 2011.

2. Application.

These Rules apply to reconciliation under section 160 of the Magistrates Courts Act and to offences contrary to the provisions of the Penal Code Act specified in the Schedule to these Rules.

3. Interpretation.

In these Rules, unless the context otherwise requires—

“Bar Course student” means a student enrolled at the Law Development Centre, Kampala or any other post graduate institution accredited by the Law Council for a post graduate course in legal practice;

“complainant” means a person aggrieved by the action of the accused or a person who makes a complaint against an accused on behalf of the aggrieved person;

“reconciliation” means the bringing of two parties into harmony who would have otherwise been unable to settle their differences;

“reconciliator” means a neutral third party whom the parties agree upon, to facilitate the reconciliation process;

“settlement” means an agreement reached by the accused and the complainant;

“party” means a complainant or an accused person.

4. Commencement of reconciliation proceedings.

(1) Reconciliation proceedings shall be commenced by—

- (a) a Magistrate presiding over a particular matter, by encouraging the parties to reconcile; or
- (b) any of the parties to the dispute requesting the Magistrate to facilitate the parties to reach a settlement.

(2) A party shall not be compelled to reconcile with another party.

5. Appointment of reconciliator.

(1) A reconciliator may be appointed by a Magistrate, if both parties agree to the person appointed.

(2) Notwithstanding subrule (1), the Magistrate may preside over the proceedings personally or any other person appointed in accordance with sub rule (1).

6. Functions of reconciliator.

(1) In exercising his or her functions under these Rules, a reconciliator shall be guided by the principles of natural justice, equity and good conscience.

(2) The reconciliator shall assist the parties in an independent and impartial manner to reach a settlement.

(3) In assisting the parties to reach a settlement, the reconciliator shall—

- (a) be guided by the principles of objectivity, fairness and justice, giving consideration to the rights and obligations of the parties;
- (b) take into consideration the circumstances of the matter and conduct the proceedings in a manner which he or she considers appropriate;

- (c) where the parties reach an acceptable agreement, formulate the terms of the possible settlement and present them to the parties for verification;
- (d) where the parties reach a settlement, draw up an agreement to which the parties shall append their signatures; and
- (e) authenticate the agreement and give the parties copies of the agreement.

(4) The parties to the reconciliation proceedings may agree upon the terms of the agreement and upon signing the agreement, the parties shall be bound by the agreement.

(5) The agreement shall be endorsed by the Magistrate presiding over the matter.

(6) Upon completion of the reconciliation proceedings, the reconciliator shall make a reconciliation report.

7. Procedure.

(1) Any party requesting for reconciliation may—

- (a) make an oral or written application to the Magistrate stating his or her intention to reconcile with the other party; and
- (b) propose the name and address of the reconciliator.

(2) Where an oral application is made, the Magistrate shall record the application.

(3) Upon receipt of the application, the Magistrate shall—

- (a) notify the other party of the application;
- (b) advise the parties whether the matter, in his or her opinion, can be settled through reconciliation;
- (c) require the other party to accept or object to the proposed reconciliation; and

(d) inform the parties that the legal proceedings shall be stayed until such time as the reconciliation is completed.

(4) Where the reconciliator is not accepted, the Magistrate shall invite proposals of names of a reconciliator from either party.

(5) The Magistrate who presided over the matter shall endorse the reconciliation agreement.

(6) Where the parties have reconciled without a reconciliator, the parties shall return to court and inform the Magistrate so that the file is closed.

8. Reconciliation.

(1) Reconciliation under these Rules shall be conducted by—

(a) a Magistrate;

(b) a Bar Course student; or

(c) any other person appointed by the court.

(2) A person appointed under subrule (1) (c), shall be a person of high moral character and proven integrity who by virtue of his or her skill, knowledge, work, standing, relationship or reputation in society is likely to enable the parties to reach a settlement.

9. Reconciliation report.

(1) A reconciliator other than the Magistrate presiding over the matter shall submit a reconciliation report to the Magistrate presiding over the matter.

(2) The report shall include an extract of what transpired during the proceedings, the names of the parties and the terms of the agreement.

(3) Where the reconciliation fails, the reconciliator shall refer the matter to the Magistrate to continue with the trial.

(4) Where the Magistrate is the reconciliator, he or she shall not use the information coming to his or her knowledge in subsequent judicial proceedings.

(5) Any information obtained from the reconciliation process shall not be used in subsequent court proceedings by any party.

10. Duration of proceedings.

Reconciliation proceedings shall be completed within fourteen days from the date of commencement, but the Magistrate shall, upon sufficient cause being shown, extend the time within which reconciliation proceedings may be concluded.

11. Reconciliation order.

Upon receipt of the report, the Magistrate shall make a reconciliation order incorporating the terms of the agreement.

12. Remedies.

When the reconciliation proceedings are completed, the court may award any of the following remedies—

- (a) apology;
- (b) restitution;
- (c) compensation;
- (d) rehabilitation;
- (e) counseling; or
- (f) any other appropriate remedy.

SCHEDULE

Rule 2.

PROVISIONS OF THE PENAL CODE ACT PROVIDING FOR OFFENCES FOR POSSIBLE RECONCILIATION.

1. Section 172 (Adulteration of food or drink).
2. Section 154 (Adultery contrary).
3. Section 235 (Assault).
4. Section 302 (Criminal trespass).
5. Section 156 (Desertion of child).
6. Section 127 (Elopement).
7. Section 157 (Neglect to provide food, etc for child).
8. Section 311 (Pretending to tell fortunes).
9. Section 254 (Simple theft).
10. Section 81 (Threatening violence).
11. Section 122 (Writing or uttering words with intent to wound religious feeling).

Cross references

Magistrates Courts Act Cap 16.

Penal Code Act Cap 120.

B. J. ODOKI,
Chief Justice /Chairperson Rules Committee.