



BILLS SUPPLEMENT

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Bill No. 1 *Magistrates Courts (Amendment) Bill* **2026**

THE MAGISTRATES COURTS (AMENDMENT) BILL, 2026

MEMORANDUM

1. Object of Bill

Object of Bill is to amend the Magistrates Courts Act, Cap. 19 to increase the pecuniary jurisdiction of magistrates courts, enhance their powers to impose higher fines, abolish the position of magistrate grade II, provide for the designation of magisterial areas, provide for transitional provisions and related matters.

2. Defects in existing law

The current pecuniary jurisdiction of Magistrates Courts was last revised in 2007 under the Magistrates Courts (Amendment) Act, 2007, Act 7 of 2007 which prescribed the jurisdiction of chief magistrates and magistrates grade I not to exceed fifty million shillings and twenty million shillings respectively, due to inflation and changes in value of money. The capping of the value of the subject matter is very low for the magistrates courts. As a result, cases that should be handled at the magisterial level end up in the High Court thereby causing backlog at the High Court.

Furthermore, following the revision and approval of the Judiciary Service Structure and Establishment, the position of magistrate grade II was abolished from the structure, the Magistrates Courts Act, Cap. 19 has not been amended to abolish and repeal the provisions relating to the magistrate grade II.

The Bill seeks to replace the rank of magistrate grade I and retain the ranks of chief magistrate and magistrate. This amendment is a consequential amendment resulting from the abolition of the position of magistrate grade II.

The Bill seeks to empower chief magistrates courts to withdraw and transfer cases to courts with competent jurisdiction for purposes of streamlining the transfer and disposal of cases filed in courts without jurisdiction, thereby reducing delays in justice delivery. The current status is that a lower court has no power in civil matters to transfer a case to the High Court. Its only recourse is to dismiss the case for lack of jurisdiction. This causes unnecessary hardships and expenses for the court users. The proposed procedural improvements will enable judicial officers to refer cases to chief magistrates for transfer to the High Court instead of dismissing them for lack of jurisdiction.

4. Remedies

The Bill seeks to abolish and repeal the provisions of the Act relating to magistrate grade II and to increase the jurisdiction of the magistrates court, both the pecuniary jurisdiction in civil cases and the fines that may be issued by the magistrates court in criminal cases.

5. Provisions of Bill

The Bill has the following salient clauses –

- (a) increasing the jurisdiction of the magistrates courts; clause 10 of the Bill proposes to increase the jurisdiction of the magistrates court by increasing the civil jurisdiction of a chief magistrate from fifty million shillings to one hundred million shillings and the jurisdiction of a magistrate from twenty million shillings to fifty million shillings;
- (b) abolishing and repealing the provisions of the Act relating to magistrate grade II. The Bill in clauses 1, 3, 4, 6, 9, 10, 12, 13, 14 and 15 repeals all the provisions in the Act that relate to magistrate grade II;

- (c) clause 11 of the Bill empowers the chief magistrate to withdraw and transfer cases to a court of competent jurisdiction in cases where a case is filed before a court without jurisdiction rather than dismissing the case for want of jurisdiction;
- (d) clause 16 of the Bill provides for the consequential amendment to substitute the words “magistrate grade I” with the word “magistrate” wherever they appear; and by deleting the words “magistrate grade II” wherever they appear in; and
- (e) clause 17 provides for the transitional provision.

NORBERT MAO,
Minister of Justice and Constitutional Affairs

THE MAGISTRATES COURTS (AMENDMENT) BILL, 2026**ARRANGEMENT OF CLAUSES***Clause*

1. Amendment of Cap.19
2. Amendment of section 2 of principal Act
3. Repeal of section 3 of principal Act
4. Substitution of section 4 of principal Act
5. Repeal of section 8 of principal Act
6. Amendment of section 161 of principal Act
7. Amendment of section 162 of principal Act
8. Amendment of section 173 of principal Act
9. Amendment of section 203 of principal Act
10. Amendment of section 206 of principal Act
11. Insertion of section 217A in principal Act
12. Amendment of section 218 of principal Act
13. Amendment of section 219 of principal Act
14. Amendment of section 227 of principal Act
15. Repeal of Schedules 2 and 3 of principal Act
16. Consequential amendment of Cap. 19 and any other enactment
17. Transitional provision

A BILL for an Act

ENTITLED

THE MAGISTRATES COURTS (AMENDMENT) ACT, 2026

An Act to amend the Magistrates Courts Act, Cap. 19 to increase the pecuniary jurisdiction of magistrates courts, enhance their powers to impose higher fines, abolish the position of magistrate grade II, provide for the designation of magisterial areas, provide for transitional provisions and related matters.

BE IT ENACTED by Parliament as follows:

1. Amendment of Cap. 19

The Magistrates Courts Act, in this Act referred to as the “principal Act” is amended in section 1(2) by repealing paragraphs (a) and (c).

2. Amendment of section 2 of principal Act

The principal Act is amended by substituting for section 2, the following –

“ 2. Magisterial areas

The Chief Justice may, by statutory instrument, designate magisterial areas and magistrates courts for the purposes of this Act.”

3. Repeal of section 3 of principal Act

Section 3 of the principal Act is repealed.

4. Substitution of section 4 of principal Act

The principal Act is amended by substituting for section 4, the following –

“4. Appointment of magistrates

- (1) There shall be appointed such number of magistrates at such rank as the Chief Justice shall determine in accordance with the Judiciary Service approved structure and establishment.
- (2) Magistrates shall be of the following ranks –
 - (a) chief magistrate; and
 - (b) magistrate.
- (3) The powers and jurisdiction of a magistrate shall be determined by the rank of his or her appointment and the powers and jurisdiction conferred upon that rank by this Act and by any written law for the time being in force.”.

5. Repeal of section 8 of principal Act

Section 8 of the principal Act is repealed.

6. Amendment of section 161 of principal Act

Section 161 of the principal Act is amended by repealing paragraph (1) (c).

7. Amendment of section 162 of principal Act

Section 162 of the principal Act is amended –

- (a) in subsection 1 (b), by substituting for the words “two hundred forty currency points” the words “five hundred currency points”; and
- (b) by repealing paragraph (1) (c).

8. Amendment of section 173 of principal Act

Section 173 of the principal Act is amended in subsection (2) (a) by substituting for the words “two years” the words “six years”.

9. Amendment of section 203 of principal Act

Section 203 of the principal Act is amended in subsection (1) by repealing paragraph (b).

10. Amendment of section 206 of principal Act

Section 206 of the principal Act is amended –

- (a) in subsection (1) (a), by substituting for the words “fifty million shillings” the words “five thousand currency points”;
- (b) in subsection (1), by substituting for paragraph (b) the following –
 - “(b) a magistrate shall have jurisdiction where the value of the subject matter does not exceed two thousand five hundred currency points”; and
- (c) by repealing paragraph (1) (c).

11. Insertion of section 217A in principal Act

The principal Act is amended by inserting immediately after section 217, the following –

“217A. Power of chief magistrates court to withdraw and transfer cases

- (1) On the application of any of the parties to a suit, appeal or other proceeding and after notice to the parties and hearing any of the parties that desire to be heard, or on its own motion without that notice –
 - (a) a chief magistrates court may transfer any suit, appeal or other proceeding pending before it for trial or disposal to the High Court;

- (b) a chief magistrates court may withdraw any suit, appeal or other proceeding pending before a magistrate, and —
 - (i) try or dispose of it;
 - (ii) transfer it to the High Court for trial or disposal; or
 - (iii) transfer it to another magistrate for trial, or return it to the magistrate from whom it was withdrawn, for disposal.
- (2) Where any suit or proceeding has been transferred or withdrawn under this section, the court to which it is transferred may, subject to any special directions in the order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn.”.

12. Amendment of section 218 of principal Act

Section 218 of the principal Act is amended by repealing subsection (2).

13. Amendment of section 219 of principal Act

Section 219 of the principal Act is amended in subsection (1) by repealing paragraph (b).

14. Amendment of section 227 of principal Act

Section 227 of the principal Act is amended by repealing subsection (2).

15. Repeal of Schedules 2 and 3 of principal Act

Schedules 2 and 3 of the principal Act are repealed.

16. Consequential amendment of Cap. 19 and any other enactment

The Magistrates Courts Act and any other enactment in force at the commencement of this Act is amended —

- (a) by substituting for the words “magistrate grade I” the word “magistrate” wherever they appear; and
- (b) by deleting the words “magistrate grade II” wherever they appear.

17. Transitional provision

- (1) Where, by reason of the amendment made under section 10 of this Act to section 206 (1) (a) of the principal Act, any cause that is pending before the High Court at the commencement of this Act, that would otherwise have been triable by a chief magistrate court, if such cause had commenced after the coming into force of this Act, any such cause shall be transferred to the court presided over by a chief magistrate and be heard by that court if, the hearing of the case before the High Court has not commenced or if the High Court is satisfied that it is fair for such transfer to be made.
- (2) Where, by reason of the amendment under section 10 of this Act to section 206 (1) (b) of the principal Act, any cause pending before the High Court or a court presided over by a chief magistrate at the commencement of this Act, would have been triable by a court presided over by a magistrate, if such cause had commenced after the coming into force of this Act, any such cause shall be transferred to a court presided over by a magistrate to be heard by that court if, the High Court or the chief magistrate has not commenced hearing the case, or if the High Court or the chief magistrate as the case may be, is satisfied that it is fair for such a transfer to be made.