

Malawi

Witchcraft Act

Chapter 7:02

Legislation as at 31 December 2014

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Witchcraft Act

Chapter 7:02

Commenced on 12 May 1911

[This is the version of this document at 31 December 2014.]

[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]

An Act to deal with Trial by Ordeal, Witchcraft and the use of Charms

1. Short title

This Act may be cited as the Witchcraft Act.

2. Prohibition of trial by certain ordeals

Trial by the ordeal of muabvi or other poison, fire, boiling water, or by any ordeal which is likely directly or indirectly to result in the death of or bodily injury to any person shall be and is hereby prohibited.

3. Instigating, directing, etc., trial by prohibited ordeals

(1) Any person who directs or controls or presides at any trial by ordeal which is prohibited by this Act shall be liable to imprisonment for seven years:

(2) Any person who within Malawi instigates or conspires or confederates or agrees to hold a trial by ordeal which is prohibited by this Act, whether the same is to be held within Malawi or elsewhere, shall be liable to imprisonment for seven years.

Provided that where any such trial as mentioned in the two foregoing subsections results in the death of any person, the person directing, controlling or presiding at such trial and the person instigating any such trial or conspiring, confederating or agreeing to hold any such trial shall be liable to imprisonment for life or for the shorter term.

(3) Being present at trial by prohibited ordeal

Any person who is present at or takes any part in any trial by ordeal which is prohibited by this Act shall be liable to a fine of £5 and to imprisonment for one year:

Provided that no person shall be punished in respect of the same trial by ordeal under this and the last preceding subsection.

(4) Making etc., poison for trial by prohibited ordeal

Any person who collects, makes, sells, or assists or takes part in making or selling, or has in his possession any poison or thing which is intended to be used for the purposes of any trial by ordeal which is prohibited by this Act shall be liable to a fine of £5 and to imprisonment for one year.

An African found in possession of muabvi or other poison commonly used for the purpose of trial by ordeal shall be deemed to have committed an offence under this section unless he shall prove that such poison was not intended for such purpose.

4. Charging person with witchcraft

Any person who, otherwise than in laying information before a court, a police officer, a Chief, or other proper authority, accuses any person with being a witch or with practicing witchcraft or names or indicates any person as being a witch or wizard shall be liable to a fine of £25 and to imprisonment for five years.

5. Employment of witch-finder

Any person who employs or solicits any other person to name or indicate by the use of any non-natural means any person as the perpetrator of any alleged crime or other act complained of shall be liable to a fine of £25 and to imprisonment for five years.

6. Pretending witchcraft

Any person who by his statements or actions represents himself to be a wizard or witch or as having or exercising the power of witchcraft shall be liable to a fine of £50 and to imprisonment for ten years.

7. Chiefs and Headmen permitting, etc., prohibited trials by ordeal

Any Chief or Headman who directly or indirectly permits, promotes, encourages or facilitates any trial by ordeal which is prohibited by this Act, or who knowing of such trial or intended trial does not forthwith report the same to the District Commissioner of the District in which such trial has been or is intended to be held, shall be liable to a fine of £25 and to imprisonment for five years.

Every Chief or Headman within whose territory or village any prohibited trial by ordeal takes place shall be deemed to have committed an offence under this section, unless he shall prove that as a matter of fact he was justifiably ignorant of such trial or intended trial.

8. Profession of witchcraft illegal

The profession or calling of witchfinder or witchdoctor or of professional maker or mixer of poison is hereby declared to be an illegal calling and every person exercising or pretending to exercise such calling or profession shall be guilty of felony and shall be liable to imprisonment for life.

9. Using charms, lots, etc

Any person who shall use or assist in using any lot or charm with a view to the commission of any unlawful act shall be liable to a fine of £5 and to imprisonment for one year

10. Act not to affect liability for willful murder

Nothing in this Act shall affect the liability to the death penalty of any person who under a pretense of trial by ordeal or of using any lot or charm commits willful murder.

11. Power to make Rules

The Minister shall have power to make Rules for the better carrying into effect of this Act and such Rules may impose fines not exceeding £5 and imprisonment not exceeding one year