



**Foreign &
Commonwealth
Office**

**Information Pack for British Prisoners in Zambia -
Prisoner Pack 2018**

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Introduction

Who can help?

The Foreign and Commonwealth Office (FCO):

The FCO is represented overseas by its Embassies and Consulates (High Commission in Commonwealth Countries). Both employ consular officers, and one of their duties is to provide help and advice to any British National who gets into difficulty in a foreign country.

About the High Commission

We are impartial; we are not here to judge you. We aim to make sure that you are treated properly and fairly in accordance with local regulations, and that you are treated no less favourably than other prisoners.

We can answer questions about your welfare and about prison regulations but you must ask your lawyer or the court about legal matters. The attached list of lawyers is provided by the British High Commission for your convenience, but neither Her Majesty's Government, nor any official of the Consulate, take any responsibility for the competence or probity of any firm/advocate on the list or for the consequence of any legal action initiated or advice given.

We cannot get you out of prison, pay fines or stand bail or interfere with local judicial procedures to get you out of prison nor secure you an earlier trial date; we cannot investigate a crime.

We have tried to make sure that the information in this booklet is accurate and up to date, but the British High Commission cannot accept legal responsibility for any errors or omissions in the information. If in doubt contact a lawyer.

Who are the Consular Representatives?

Dax Patel
Consular Officer

Contact Information

British High Commission,
Embassy Park
5210 Independence Avenue
PO Box 50050
Lusaka
Zambia
Tel: (+260) 211 423200
Email: LusakaConsularEnquiries@fco.gov.uk
Website: www.gov.uk/government/world/zambia

First Steps

Who will know I have been detained?

When a British citizen is arrested and detained in Zambia the authorities must inform the British High Commission. However, this does not always happen therefore it is essential that you inform the British High Commission as soon as possible after your arrest, whether through friends, visitors, colleagues or acquaintances. **It is your right to do so.**

What will my family be told?

For reasons of confidentiality we are not permitted to tell anyone that you have been detained or what the charges are without your permission.

What will the Consulate do?

A Consular Officer will visit you as soon as possible after receiving notification of arrest. As it is necessary to obtain prior clearance from the Zambian authorities there may be some delay between us hearing of the arrest and the visit. In this event, we will do our best to keep you informed.

We can provide you with a list of English-speaking lawyers. Legal costs are your responsibility.

If you have dual nationality and one of your nationalities is Zambian, then the British High Commission cannot assist you formally under international law. However, we will provide whatever informal assistance the local authorities will allow.

Would I have a criminal record in the UK?

You should be aware that if you have been convicted for certain serious offences, such as sexual assault or drug trafficking, we are obliged to inform the UK police. It is therefore possible that information about this offence may appear if a Criminal Records Bureau check were carried out by a prospective employer.

Visits

How do my family and friends arrange a visit?

A prisoner's visitor has to have authorisation from the Officer-in-Charge (OIC) at the prison who issues permits for such visits.

How many visits am I allowed?

Prisoners are entitled to unlimited visits by their legal adviser and Consular Officers.

Providing relatives are granted permission, they can be allowed to visit daily depending on the arrangement. However, no prisoner is allowed to receive more than three visitors at any one time.

Consular visits

Consular staff will visit a prisoner within 24 hours once permission has been granted by the Ministry of Foreign Affairs in Zambia. Thereafter the frequency of visits depend on prisoner's circumstances and condition and proximity of prison. Nevertheless, they would keep in regular contact with the prison authorities to check on welfare of prisoner.

What can visitors bring?

Visitors are advised to bring basic toiletries and other small essential items. Dry food and juice may be permitted providing the Prison Officer has checked all the items.

Prison conditions/services

Arrival at prison

On admission to prison under an appropriate detention warrant, prisoners are received by the Reception Board consisting of the OIC and other officers. The Reception Board interviews and classifies prisoners and provides them with a copy of the Prison rules. The Medical Officer examines the general health of the prisoner and records it.

General prison conditions

Prison conditions in Zambia can be very harsh. Overcrowding is a major problem and cells designed to hold 20 prisoners often hold in excess of 100. Sanitation is very poor with most cells consisting of a single run-down toilet. Shower facilities are available but hot water is scarce. Mosquitoes, cockroaches and rats are commonplace.

How can I receive money?

In case any monies need to be transferred to you, relatives/friends can transfer through Western Union either through friends or in the absence of any persons through the Consular Officer at the British High Commission in Lusaka. Please click on link on how to transfer funds through the Foreign Office.

<https://extranet.fco.gov.uk/doingyourjob/consular/assistance%20guidance/Documents/Instructions%20emplate%20-%20transfer%20of%20funds%20to%20the%20FCO%2015-02-2016.docx>

In the event of financial hardship, the Legal Resources Foundation (see contact details on the lawyer's list) may consider applications for free legal aid. Any such request should be made through the reception officer on arrival at the prison cell.

Small amount of monies can be deposited with the reception officer at the prison. This may be used for daily needs but should not be used to purchase items such as liquor, tobacco, cigarettes, stupefying drinks and drugs which are prohibited. Arrangements can usually be made with the prison officers or visitors for small items to be purchased on your behalf.

Can I work or study in prison?

There are no facilities in prisons for private work or study. Prisoners are able to receive books to pursue studies, provided this has been approved and checked with the OIC. Some prisoners have been sentenced to prison with hard labour in which case they would need to work as part of their sentence.

Can I receive medical and dental treatment?

The prison Medical Officer is responsible for the prisoner's health care. As stocks of drugs are limited, prisoners may need to rely on friends or relatives to purchase prescribed medication. For long term treatments prisoners are taken to the nearest government hospital; stocks of drugs again may be limited.

Standards of healthcare are low. Poor sanitation, overcrowding in cells and bad diet combine to help the spread of infections. Colds and stomach problems are common, if you have concerns about your health whilst in prison you should notify the Prison Medical Officer and the Consular Officer.

Food and Diet

The prison diet is very limited and not geared to Western tastes. Rations consist of Nshima (Maize meal), beans and Kapenta (small fish similar to whitebait). There is virtually no variety. Prisoners with friends or relatives in the area may arrange to have food bought in. Before this is done, however, you should check with the OIC whether this will be permitted and whether it will result in the withdrawal of all prison rations.

Mail/Parcels

Letters are subject to censorship. You may receive parcels but these should not contain perishable foodstuffs. Writing paper, envelopes and stamps must be provided by the prisoner.

Can I make telephone calls?

Ordinarily cell phones are not allowed in prisons. But with permission and good conduct from the OIC they are allowed to make phone calls.

Leisure and entertainment

We are not aware of any form of leisure and entertainment. Prisoners are allowed to communicate with each other unless in separate confinement.

Drugs

In most prisons drug abuse is rife. If you inject drugs, you run the risk of contracting serious blood borne infections, like AIDS and hepatitis. Punishments for possession or use of drugs can be severe.

How can I make a complaint about mistreatment?

Any complaints about mistreatment may be made to the Commissioner of Prisons, visiting Justices, official visitors, the OIC or the Chief Officer of the prison. Any complaints to the Consular Representatives will be followed up with the prison authorities with your permission.

THE ZAMBIAN JUDICIAL SYSTEM

Is the system the same as the UK?

The legal system in Zambia is not the same as that in the UK, although similar, Zambia has their own laws and regulations. However, the system is heavily reliant on the English laws which are of persuasive value in Zambia.

What should happen when I am arrested?

The Zambian criminal justice system provides a sufficient framework for regulating pre-trial detention and fair-trial rights. The legislation provides for bail (although some offences preclude bail); due process guarantees; the right to be informed of the reasons for arrests; compensation for unlawful arrest; the right to be brought to the court within 24 hours, the right to be tried within a reasonable time by a competent tribunal or authority; the presumption of innocence; access to legal representation and the general rights relating to liberty and security of person.

Therefore, once arrested the accused person must be brought before a trial court within 24 hours of their detention or be allowed to leave on bail.

For how long can I be remanded in custody?

Ideally during this pre-trial detention, the accused is to be kept in remand, however due to congestion in prisons, remandee's and convicted prisoners share prisons. It is also difficult to say how long an accused person will stay in a remand prison due to the challenges the criminal system in Zambia faces.

Thus, in line with the above, the amount of time an accused stays in remand pending determination of the matter varies on a case by case basis and cannot be easily determined.

What happens when I am charged and what provisions are there for bail?

Once a person has been arrested and charged with a criminal offence he/she will be presented to court where they either plead guilty or not guilty to the charges. Thereafter, the procedure to be followed is elaborated below under the heading **what happens at trial**.

Police bond- the police in Zambia can grant bail, however this is at the discretion of the OIC. Police bond should be granted to an accused if, as mentioned above, the accused cannot be brought before the court within 24 hours from his arrest.

Bail pending trial – this is bail granted for offences prescribed as bailable - determinations on the applications are made taking into consideration a mix of factors such as the probability of the accused fleeing the country or committing another offence while out on bail.

Bail pending appeal- this kind of bail is given with caution, as the person has already been convicted. It is provided for under Section 22 of the Supreme Court of Zambia Act Chapter 25 of the Laws of Zambia.

However, in cases involving serious offences prescribed as non-bailable the courts are precluded from granting bail except as has been held by the Supreme Court in relation to Constitutional bail.

Constitutional bail- This is a bail granted to any person who is arrested or detained on reasonable

suspicion of having committed a criminal offence; and who is not released shall be brought without undue delay before a court and if they are not tried within a reasonable time, then they shall be admitted to bail either unconditionally or upon reasonable conditions. This type of bail can only be granted by the High Court and can be granted in all offences including non-bailable ones, provided that serious offences such as murder and treason are rarely admitted to bail. Bail maybe refused if it's of the view that the accused may abscond, or interfere with witnesses.

What kind of legal assistance is available?

The Legal Aid Act of the laws of Zambia provides for the provisions of legal aid. The law provides for the appointment of public officers being the Director of Legal Aid, legal aid counsel and legal aid assistants for the proper administration of this Act.

The Legal Aid Board (LAB) is mandated to provide legal aid services (criminal and civil) to indigent persons. The services provided include legal representation and/or advisory. The clients of the Board are encouraged to pay a nominal fee for consultation and legal aid contribution. The client is then asked to explain their matter to the lawyer. If it is established that a matter has merit, the client is advised to apply for legal aid.

However, all applicants are subjected to a means test to establish the financial position of a client

What happens at the trial?

After the suspect has been arrested, the suspect is to be brought before court without unnecessary delay. When the suspect appears in the court the charge is then read to them and they state if the information contained is correct and then they take a plea of innocence or guilt. After the plea has been taken the trial begins. The accused person shall until the trial either admit him to bail or send him to prison for safe-keeping.

If the accused person admits the truth of the charge, the court shall convict him and pass sentence or make an order against him.

If the accused person does not admit the truth of the charge, the court shall proceed to hear the case which process will include the adducing of evidence for and against the accused as well as hearing the testimony of any witnesses.

If the accused person refuses to plead, the court shall order a plea of "not guilty" to be entered for him and proceed to hear the case.

Where there is more than one accused person, each accused person must plead each count of the charge against him/her.

Sentences?

Imprisonment - with or without hard labour, whether or not he is sentenced to a fine in addition.

Forfeiture – this is the loss of property to the state upon conviction which is a sentence that is only ordered under a specific statutory power. The property to be forfeited may be property connected to or

used for the commission of the offence or that created as a result of committing the offence.

Absolute discharge - the accused is unconditionally set free.

Conditional discharge - the accused is released on condition that he does not commit any offence

Deportation - upon completion of the sentence foreign nationals are deported to their country of origin.

Suspended sentence - the Court can suspend all or part of a convicted person's sentence for a number of years. However, if the person commits a similar crime in that period they will be sentenced for the new crime and will have to serve the suspended sentence from the previous crime as well.

Order of community service- the court may order that a convicted person conduct some form of community service. Failure to comply with such an order will result in summons or a warrant of arrest to be issued for the person.

Security to keep the peace- persons convicted of an offence not punishable by death in addition to or instead of imprisonment may be directed by the court to sign a bond stating that they will henceforth be of good behaviour and keep the peace. Failure to execute such bond will result in imprisonment of not more than 1 year.

Capital Punishment: death, the ultimate penalty.

How can appeals be made?

Any person convicted by a subordinate court may appeal to the High Court within 14 days of the court convicting such a person. Any "sentence" includes any order made on conviction.

If the Director of Public Prosecution is dissatisfied with a judgement of a subordinate as being erroneous in point of law or as being excess of jurisdiction, he may appeal against such judgement to the High court within 14 days of the subordinate court's decision. During the appeal the court has the power to hear additional evidence.

What provision is there for reduction of sentence e.g. for good behaviour?

The prisons in Zambia are congested and the provisions of the law allow for prisoners to earn a remission of one-third of their sentence or sentences or be released early on parole due to their show of industry and good conduct. It must be noted that the law only allows for prisoners to be released on parole for the last 6 months of their prison term.

What provision is there for clemency or pardon?

Clemency is simply leniency or mercy. A power given to a public official, such as a governor or the president, to in some way lower or moderate the harshness of punishment imposed upon a prisoner. It is based on the policy of fairness, justice and forgiveness. It is not a right but rather a privilege.

In Zambia, the Presidential pardon is granted by the President under his Prerogative of Mercy to any person convicted of any offence. Someone who has not been convicted cannot be pardoned.

What about financial penalties?

Fines are imposed if the court is satisfied that the accused can pay. The accused may be imprisoned in default of payment which should not exceed 9 months unless the law under which the conviction was made expressly authorises a longer sentence.

Is transfer to another prison within Zambia possible?

Section 68 of the Prisons Act Chapter 97 of the Laws of Zambia provides for the transfer of a prisoner from one prison to another within the country. The Commissioner of Prisons can do this by any general or special order.

Is transfer to the UK a possibility?

This is not a possibility as there is no Prison Transfer Agreement in place with the United Kingdom.

What are the procedures for release and deportation?

After serving the sentence and/or paying a fine for the criminal offence foreign nationals are ordinarily deported to their country of origin.

Prisoners Abroad

Since 1978 the charity Prisoners Abroad has offered practical support and advice to British citizens imprisoned overseas. It is the only UK charity providing this service and it is available to all, whether guilty or innocent, convicted or on remand. Prisoners Abroad is concerned with your health and welfare, both during your imprisonment and also on your return to the UK, through their resettlement service (if you have registered whilst in prison). They can also provide support and advice to your family during your imprisonment. In order to access any services, prisoners must first register with Prisoners Abroad by signing and returning their authorisation form.

Once you seek help from Prisoners Abroad, the Prisoner & Family Support Service will be your point of contact for advice and information. The type of assistance they can offer will vary from country to country, but generally they can provide you with information, in English, on:

- your rights as a prisoner and issues that may affect you such as health or transfer to the UK;
- obtaining magazines, newspapers, books and the regular Prisoners Abroad newsletter;
- writing to a pen pal;
- learning the language of your country of imprisonment;
- translation of documents;
- grants for food if you are in a developing country and don't have funds from other sources;
- grants for essential medicines and toiletries if you don't have funds from other sources;
- preparing for release; and
- help for your loved ones, including information, family support groups and assistance with the cost of visiting.

Prisoners Abroad
89 - 93 Foothill Road
London N4 3JH
UK

Telephone: 00 44 (0)20 7561 6820 or, for your relatives in the UK, Free phone 0808 172 0098

(Mondays to Fridays 9.30 am to 4.30 pm, UK time)

Email: info@prisonersabroad.org.uk

Website: www.prisonersabroad.org.uk

Annexes

Annex 1: Guide to Zambian Legal System

Annex 2: Zambian Lawyer's list- attached

Annex 3: FCO leaflet: *In prison abroad*

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/35521/in-prison-abroad.pdf

Annex 4: Prisoners Abroad authorisation form

<http://www.prisonersabroad.org.uk/uploads/news/id48/Authorisation%20form%20v3.1%20August%202013.pdf>

Annex 5: Prisoners Abroad family contact form

<http://www.prisonersabroad.org.uk/uploads/news/id44/Contact with Family Friends.pdf>

Annex 6: Prisoners Abroad CFF form

<http://www.prisonersabroad.org.uk/uploads/news/id49/Form cff.pdf>

Annex 7: Fair Trials International questionnaire and leaflets

<http://www.fairtrials.org>

Disclaimer

This booklet was compiled by the Consular Section, British High Commission Zambia. It is revised on a regular basis.

If any of the information contained in this booklet is incorrect, please draw inaccuracies to our attention so that we can make amendments.

The British High Commission in Zambia is not accountable for the information provided in this booklet. Local proceedings are subject to change at any time.

Thank you.

17 January 2018