

High Court (Amendment) Rules, 2024 (No. 2)

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IT is hereby notified that the Minister of Justice, Legal and Parliamentary Affairs, in terms of section 56 of the High Court Act [*Chapter 7:06*], has approved the following rules of court made by the Chief Justice and the Judge President:—

1. These rules may be cited as the High Court (Amendment) Rules, 2024 (No. 2).

2. The High Court (Amendment) Rules, 2023 (No. 1), published in Statutory Instrument 153 of 2023, are repealed.

3. The High Court Rules, 2021, published in Statutory Instrument 202 of 2021 (hereinafter called the principal rules), are amended in rule 2 (“Interpretation”) by inserting the following definitions—

““address or address for service” means the physical address or electronic address or where that is the only known address, the postal address;

“copy”, in relation to a document, means one or more facsimiles of an original document unless that document is filed or served electronically;

“date of filing” means the date on which any pleading envisaged by these rules is lodged with and accepted by the Registrar;

“deliver or serve” means to either physically or electronically file a pleading or record with the Registrar and immediately thereafter, serve a copy on the other party by physical means or electronically;

“e-filing centre” means a designated court station in any district at which gadgets, internet service and technical expert assistance are provided at no cost to access the IECMS platform, electronically file a document(s) and participate in a virtual hearing;

“filing” includes electronic filing;

“hearing” means court proceedings conducted in person, and includes court proceedings conducted by audio-visual means in which the court or Judge, court staff,

legal practitioners, litigants, members of the public and the media participate or follow as the case may be, simultaneously through a court-generated link;

“IECMS account” means a litigant’s Integrated Electronic Case Management account that is accessed through the internet and which enables him or her to access the IECMS platform;

“IECMS platform” means the web-based Integrated Electronic Case Management System operated by the court;

“litigant” means a party to proceedings before the court or a judge, and includes a representative;

“representative”, in relation to a representative of a litigant, means a legal practitioner registered in terms of the Legal Practitioners Act [*Chapter 27:07*]; an official or employee of a registered trade union or employers’ organisation of which the litigant is a member; or a duly authorized representative of a litigant company or other business entity registered or incorporated under the Companies and Other Business Entities Act [*Chapter 24:31*] (No. 4 of 2019) or any person designated to represent another in terms of the law;

“sign” means sign a document or process manually or electronically;”.

1. Rule 4 of the principal rules is repealed and replaced by the following—

*“Registrar’s office hours*

4. (1) The office of the Registrar shall be open from 0830 to 1300 hours and from 1400 to 1600 hours every day which is not a Saturday, Sunday or public holiday.

(2) The Registrar may, in exceptional circumstances, accept a document at a time outside office hours, and shall do so when directed by a judge or the Chief Registrar in writing.

(3) Litigants may electronically file documents at any time of the day, but—

- (a) process will only be accepted, that is to say, issued out of the office of the Registrar, during office hours;
- (b) process will not be accepted if the filing is non-compliant with the *dies induciae* within which any act must be done as stipulated by these rules.”.

3. Rule 15 (“Service of process”) of the principal rules is amended—

- (a) by deletion of the heading and substitution of “*Service, e-filing and related matters*”;
- (b) by replacing subrules (4), (5), (6), (7), (8), (9) and (10) with the following subrules—

“(4) Save for the initial service of a summons commencing action, the service of notices of set down on the unopposed roll of matrimonial applications, the service of any process for the arrest of any person, the service of writs and warrants, the service of any document, pleading or process shall be effected on the IECMS platform:

Provided that any litigant or representative shall be entitled to access an e-filing centre nearest to him or her, and at no cost, to effect electronic service and further that a judge may on application authorise service by any other means on good cause shown.

(5) Any party required to serve the process through the sheriff shall deliver to the sheriff a physical copy of the process within 7 days of the request together with as many copies as there are persons to be served, failing which the request shall be deemed abandoned.

(6) Process served otherwise than electronically shall be effected between the hours of 0700 and 2100 on any day which is not a Sunday, except for process for the arrest of any person which shall be validly served at any time.

(7) In addition to the methods of service provided for in these rules, service may be effected

electronically by way of e-mail, web portal or other electronic means designated by the Chief Justice in a Practice Direction, in which case—

- (a) proof of such electronic service shall be simultaneously copied to the Registrar;
- (b) a sent status report shall be deemed to be *prima facie* proof of electronic service.

(8) Except as otherwise provided for in these rules, proof of service of any document required to be served shall be lodged with the Registrar in all cases not more than forty-eight hours after such service.

(9) The authentication of any electronic communication shall be effected by means of electronic signatures, and certified backup copies of the communication shall be kept in paper form or by such other acceptable means, as may be directed from time to time by the Chief Justice.”.

4. The principal rules are amended by the insertion of the following rules after rule 15—

*“General provisions for electronic filing of process*

15A.(1) Where any act in terms of these rules may be performed or executed on the IECMS platform, litigants and representatives shall first create an IECMS account before proceeding to access the IECMS platform, for which purpose—

- (a) the mandatory information required for accessing the IECMS platform shall be provided by the Registrar;
- (b) any changes in the mandatory information necessary for accessing the IECMS platform shall be relayed to the Registrar within 48 hours of the changes; and
- (c) a telephone number and email address shall be provided.

(2) A person with an IECMS account shall preserve the integrity and security of his or her account and no liability shall attach to the IECMS platform’s administrators for any failure to preserve such account.

(3) A document that is sent for filing by electronic communication to the Registry as part of IECMS or, in exceptional cases, by alternate electronic means, shall be—

- (a) sent by using the official websites of the Court; and
- (b) in an electronic format approved by the Registrar; and
- (c) capable of being printed in the form in which it was created, without modification or loss of content; and
- (d) electronically stamped or signed by the Registrar, if it is required in accordance with these rules to be stamped or signed by the Registrar.

(4) A person who sends a document by electronic communication to the Registry as part of IECMS or, in exceptional cases, by alternate electronic means in terms of these rules shall—

- (a) keep a hard or electronic copy of the document prepared in accordance with these rules; and
- (b) if ordered to do so by the Court, produce the hard copy of the document.

(5) In addition to any other mode of payment, the IECMS platform shall allow payment of any fees to be made electronically.

*Pagination and indexing of electronic documents, and format of pleading or other legal documents*

15B. (1) All documents filed electronically shall be indexed and paginated in accordance with, and (notwithstanding Rule 36) otherwise conform to, the following provisions—

- (a) all documents filed in connection with a particular case shall be contained in a single PDF document which shall be identical to the hard copies of the document;
- (b) the pagination of electronic documents shall appear at the top of the page on the right;
- (c) the applicant or appellant shall create an index of all documents filed electronically, which index shall be identical to the index of the hard copies;

- (d) the format of the documents presented for filing to the court shall be in paragraphs, and the “Times New Roman” font type, size twelve (12), and a line spacing of 1.5 shall be used for all pleadings and documents;
- (e) the pleadings and documents shall not be unreasonably long, voluminous or convoluted.

(2) The Registrar shall reject any document or pleading that does not comply with this rule.

*E-filing centres*

15C. (1) There shall be e-filing centres with internet access and related services provided using dedicated computers or electronic gadgets at each High Court station, and every magistrates’ court station. The e-filing centres shall be accessible at no cost.

(2) There shall be designated e-filing officers to assist litigants and representatives at every e-filing centre.

(3) A litigant or representative of a litigant shall be entitled to use an e-filing centre nearest to him or her for the following purposes—

- (a) accessing his or her IECMS account;
- (b) accessing correspondence and pleadings filed by another party to the case;
- (c) electronically serving a document;
- (d) tracking a case in which he or she is a participant; and
- (e) participating in a virtual hearing.

(4) For the avoidance of doubt, the Judicial Service Commission shall, in so far as possible, facilitate access to e-filing to all interested persons and, in particular, persons living with disabilities or under detention.

5. Rule 56 (“Civil Trial Proceedings”) of the principal rules is amended—

- (a) by deleting the heading and replacing it with “*Setting down and hearing of Civil Trials and related matters*”;

- (b) in subrule (28) by deleting “parties to any civil action” and replacing it with “parties to any civil action or application”.

6. The principal rules are amended by the insertion of the following rules after rule 56—

*“Virtual hearings*

56A. Pursuant to section 47(2) of the High Court Act [*Chapter 7:06*] and section 194A of the Criminal Procedure and Evidence Act [*Chapter 7:06*] virtual hearing matters shall be conducted on the IECMS Platform.

*Principles guiding the conduct of virtual hearings*

56B. (1) The Virtual Court Platform shall operate on the following principles—

- (a) the platform shall facilitate the expeditious, effective, seamless and real-time conduct of virtual court proceedings;
- (b) the court, as the host of the platform, shall be responsible for furnishing the technology, software and equipment needed to make the platform operational, which technology software and equipment shall include but shall not be limited to the requisite internet service, computers, servers and cameras;
- (c) litigants and representatives shall be entitled to access any e-filing centre nearest to them to participate in a virtual hearing;
- (d) the platform shall be programmed to ensure the security, authenticity, and where necessary, confidentiality of virtual proceedings;
- (e) the platform shall ensure that virtual hearings are conducted as seamlessly as possible without interruption and, to this end, the Registrar shall take measures to resolve any technical challenges experienced during the conduct of virtual proceedings;
- (f) assistance shall be afforded to the parties before and during the hearing by technically qualified officers

of the court to ensure that the parties hosted thereon are able to participate seamlessly and effectively;

- (g) to ensure the continuity and seamlessness of virtual court proceedings, the platform incorporates backup facilities in case of power outages and interruptions of connectivity; and
- (h) the IECMS platform shall provide a quality of connectivity, resolution and definition sufficient to permit legal practitioners, their clients, the judge and the witnesses to observe each other's expressions, reactions and demeanour as much as possible as if the participants were present together in an actual court setting.

(2) Unless otherwise ordered by the court, in the interest of justice, members of the public, who are not parties to the proceedings in question, shall be allowed access to the virtual hearing proceedings through a court generated link.

*Consent to participate in virtual hearings*

56C. (1) The platform shall be availed for parties to use on a voluntary and consensual basis, subject however to the court's power to direct that, in the interests of justice, a particular case shall be heard virtually.

(2) The agreement of the parties to have a virtual hearing of their matter shall be embodied in writing and signed jointly by them and lodged with the Registrar no later than ten days before the proposed virtual hearing:

Provided that where parties fail to agree as to the nature of proceedings, the Registrar shall refer the matter to a judge in chambers for an appropriate determination.

(3) Upon a referral in terms of subrule (2) the judge may, in the interests of justice, give any directions as he or she may deem appropriate.

- (4) Before making a direction the judge shall—
  - (a) invite the parties to make representations before him or her in chambers;



- (b) require any party alleging any incapacity to participate in a virtual hearing to depose to an affidavit setting forth the particulars of such incapacity.

*Hybrid virtual hearings*

56D. (1) Participation in virtual hearings on the IECMS platform can be so arranged that any of the following forms of participation is possible—

- (a) one party and his or her witnesses may be physically present at the location where the court is sitting, while the other party accesses the platform from a different location; or
- (b) both parties may be virtually participating from different remote locations.

(2) The platform shall enable witnesses to participate virtually in the hearings at any court nearest to their place of residence or at any other location by prearrangement with the Registrar:

Provided that a party and his or her witnesses may access the platform from the same location subject to the following conditions—

- (a) if there are two or more terminals at the location, the party and his or her witnesses must communicate from different terminals;
- (b) if there is only one terminal at the location, the party must not be seen in close proximity with his or her witness while the witness's testimony is being given or tested;
- (c) to ensure that witnesses will not be influenced or influence other witnesses, the witnesses who are yet to give testimony and who have given testimony must be absent from the location until their testimony is required;
- (d) in any of the foregoing circumstances the police officer present at the location must ensure that no communication, except with the express leave of the court, takes place between the party and his or her witnesses or between the witnesses themselves.

*Supervision of virtual hearings*

56E. The Registrar is ultimately responsible, subject to the directions of the court, for the smooth operation of virtual hearings, and any or all of the parties to the virtual hearing shall have access to him or her during normal office hours for the purpose of ensuring beforehand that the hearing will be conducted seamlessly, efficiently, cost-effectively and expeditiously.

*Default in virtual hearings*

56F. If a party fails to attend a virtual hearing, having agreed or been directed to participate in the hearing, and there being no technical default attributable to the platform itself, subject to proof of notification of the notice of set down, such party shall be subject to default judgment proceedings, and it shall not be competent for it to plead lack of the requisite technical resources if it had not raised that issue with the Registrar before the start for the virtual hearing.”.

7. Rule 64 (“Setting down, Adjournments, and postponement of matters”) of the principal rules is amended by inserting the following paragraph after paragraph (g)—

“(h) notice of set down shall either be given to the parties or their legal practitioners personally, or sent by registered post or electronic mail to the address of service supplied in terms of these rules.”.

8. Rule 69 (“Writ of execution- general”) of the principal rules is amended by repealing subrule (17) and replacing it with—

“(17) If any property taken in execution is claimed by a third party as his or her property, the Sheriff shall on receipt of the claim, forthwith give notice to the execution creditor.”.

9. Rule 70 (“Execution against moveable property”) of the principal rules is amended by repealing subrules (11) and (12) and replacing them with—

“(11) Unless the court or a judge otherwise directs or the parties agree to the contrary, any movable property sold in execution shall be sold publicly and for ready money by the Sheriff to the

highest bidder through an electronic auction system as may be advantageous for the sale thereof and the said Sheriff shall publish the notice of sale in a newspaper circulating in the country and the IECMS website.

(12) The day for the start of the sale shall not be less than twelve (12) days after the time of the seizure or attachment and thereafter bids for the electronic auction shall be by public auction without reserve and shall be held online by the placement of bids from 0000 hours until 2359 hours when bidding closes.”.

10. Rule 71 (“Execution against immovable property”) of the principal rules is amended—

- (a) by repealing subrules (25), (26) and (27) and replacing them with—

“(25) The deposit so made shall be reimbursed to the party concerned out of the first proceeds of the sale, if these are sufficient.

(26) Upon receipt of a deposit in terms of subrule (24), the Sheriff shall conduct the sale of the immovable property concerned.

(27) The sheriff may, if he or she deems it expedient, appoint some fit and proper person, not being interested in the immovable property, to value the same and to report on oath to him or her for his or her guidance such estimated value, and any party interested may, at his or her own expense, in like manner furnish the sheriff with an independent valuation of the property.”;

- (b) by repealing subrule (30) and replacing it with—

“(30) The sale shall be by public auction without reserve and shall be held online by the placement of bids from 0800 hours until 1700 hours when bidding closes.”;

- (c) by repealing subrule (31);

- (d) by repealing subrule (35) and replacing it with—

“(35) If the purchaser is already in possession of the property, the Sheriff may make a chamber application for an order ejecting him or her or any person claiming to hold under him or her therefrom.”;

- (e) by deleting the heading to subrule (44) and replacing it with—

“(44) On receipt of a request in terms of subrule (40) and any opposing or replying papers filed in terms of this subrule, the sheriff shall advise the parties when he or she will hear them and after giving them or their legal representatives, if any, an opportunity to make their submissions, he or she shall either—”;

- (f) by inserting the following subrule after sub-rule (45)—

“(45a) Upon being notified of an application in terms of subrule (45), the Sheriff shall take no further steps in regard to the confirmation or cancellation of the sale of the property concerned pending the determination of the application.”.

11. The principal rules are amended by the insertion of the following rule after rule 89—

*“Application of Rules 56(28) and 56A, 56B, 56C, 56D, 56E and 56F to criminal proceedings*

89A. (1) Subject to any other law, Rule 56(28) as read with rules 56A, 56B, 56C, 56D, 56E and 56F shall apply with necessary changes to criminal matters in criminal proceedings.”.

(2) Legal practitioners who are appointed on a *pro deo* basis in criminal proceedings by the Registrar after consultation with the Law Society of Zimbabwe shall, where the instructions are issued on the IECMS platform, acknowledge receipt of the instructions within two days of the communication by the Registrar, failing which the Registrar shall communicate directly with the legal practitioner concerned.”.

12. The principal rules are amended by the insertion of the following rule after rule 109—

*“Deadline for full migration to paperless proceedings*

110. (1) Twelve months after the coming into operation of the electronic filing system, the Court shall become a fully paperless Court, save in exceptional circumstances authorised by a Judge or the Court.

(2) Pending any amendment of these rules that may be required to give effect to subrule (1), the Chief Justice, after consultation with the Judge President, may issue to the Court any written directions necessary or expedient to give effect to that subrule, which directions shall be binding and have effect notwithstanding anything contained in these rules for a period of twelve months unless the direction concerned is earlier embodied in an amendment of these rules.”.

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