

10 February 2021



## Plea Bargaining Rules now in force

The Chief Justice of Tanzania has published the Criminal Procedure (Plea Bargaining) Rules 2021 (Rules) under section 194H of the Criminal Procedure Act [Cap.20 R.E 2019] (Act) for better carrying out of the provisions of plea bargaining in the Act. The Rules were published on 5 February, 2021 vide GN No.180 of 2021.

The Rules address, among others:

- Scope of plea agreement
- Procedure to be adopted
- Time limit within which a plea agreement should be concluded
- Prosecutions' duty to disclose evidence to the accused during bargaining
- Involvement of the victims of crime in bargaining the value or form of compensation to be paid
- Sentencing recommendations to be considered by the Court
- Form of application to set aside conviction founded on plea agreement

The Rules set out the procedure for initiating a plea agreement. Before making of the Rules, the practice has been that the accused initiates a plea bargaining request by writing a letter to the DPP through the prison authority. Under the current practice, the Court was only involved after the conclusion of the agreement between the prosecution and the defence. The Rules however requires the parties to a criminal offence to engage the Court from the beginning by notifying it orally or in writing of the intention to negotiate a plea agreement. The Court is vested with the power to fix a time within which a plea agreement should be concluded. The maximum time that can be granted is 30 days.

Unlike under the Act where disclosure of evidence depended on the type of Court an accused was at, under the Rules, the prosecutor is duty bound to fully disclose to the accused the evidence obtained during investigation to enable the accused make an informed decision. This is a big step in improving the administration of criminal justice in Tanzania.

The Rules also gives the victims the right to be involved in the plea bargaining process especially to protect their right to compensation or restitution. The victim can even initiate a proposal to include compensation to him in the agreement.

The Rules has cleared the worry of many accused and defence counsel of entering into a plea agreement of an offence punishable with a minimum statutory penalty. In Tanzania all economic offences, sexual offences, drug offences and many other offences attract severe minimum statutory penalties. Many accused have been hesitant to enter into a plea agreement for fear of being sentenced to such severe minimum statutory custodial sentences. The Rules allow the accused and public prosecutor to propose a penalty in the final plea agreement. Although the rules give the Court discretion to impose a lesser penalty than the statutory minimum penalty prescribed by the law as suggested by the parties, the Court is not bound by the sentence recommended by the parties.

The Rules prescribes the format of a plea agreement and the form of an application for setting aside a conviction founded on plea agreement. Formerly there was no statutory format of the plea agreement.

To read the Rules, [click here](#).

For further information on legal updates please contact:

E: [info@fbattorneys.co.tz](mailto:info@fbattorneys.co.tz)

### About FB Attorneys

FB Attorneys is an all service law firm based out of Dar es Salaam, Tanzania.

We cover all aspects of the law and specialise in all corporate and commercial matters including Mining, Oil & Gas, Tax, Litigation, Competition, Banking & Intellectual Property law.

FB Attorneys has been ranked as a tier 1 law firm by the IFLR 1000 in the Energy & Infrastructure and Financial & Corporate sectors, tier 1 by Legal 500 and band 1 by Chambers and Partners General Business Law.

### FB Attorneys

8th Floor, Amani Place, Ohio Street  
P. O. Box 19813  
Dar es Salaam, Tanzania  
T: +255 22 2135994/5  
E: [info@fbattorneys.co.tz](mailto:info@fbattorneys.co.tz)  
W: [www.fbattorneys.co.tz](http://www.fbattorneys.co.tz)

### Disclaimer

Information found in this legal update and any attachments are confidential and may be privileged or otherwise protected from disclosure, and intended solely for the use of the individual or entity to whom it is addressed to. If you are not the intended recipient, please notify the sender immediately and delete this message and any attachment from your system. Any views or opinions expressed in the message or its attachments are not necessarily those of FB ATTORNEYS.

© FB Attorneys 2021. All rights reserved.

