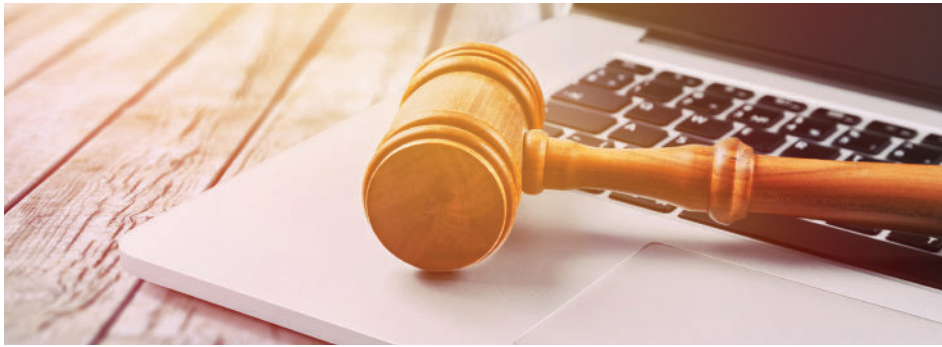


2 September 2021



Chief Justice Issues Remote Proceedings and Electronic Recording Rules

- Court has mandate to allow or refuse remote proceedings
- Restricted where hearing involves tendering of exhibits
- Remote proceedings assistants can be appointed
- Observers allowed to attend remote proceedings
- Prohibit publication of proceedings without leave of the Court
- Address issues relating to recording and storage of Court proceedings

In a bid to continue ensuring speedy disposal of cases, harnessing use of technology and making justice more accessible, and efficient, His Lordship the Chief Justice has issued the Judicature and Application of Laws (Remote Proceedings and Electronic Recording) Rules, 2021 (the Rules). The Rules came into force on 27 August 2021. It should be noted that the Rules apply to the High Court and Subordinate Courts in both Civil and Criminal matters.

The Rules empower the Court, on its own motion or on a request by a party, to direct proceedings to be conducted remotely. In deciding whether or not to allow remote proceedings, the Court considers physical presence of the party or witness, security reasons, health reasons or any other reasons as it may deem fit. Further, methods by which remote proceedings may be conducted include: electronic exchange of documents; the Court's video conference system; and teleconference.

In terms of restrictions, the Rules provide that remote proceedings may not be preferred if the hearing involves tendering of exhibits unless it is in the interest of justice to do so, whereby tendering exhibits would then be done by displaying them on a screen for the Court and parties to see. Upon their admission, the party on whose behalf the exhibits were tendered must send the exhibits to the Court for them to be endorsed accordingly.

Moreover, the Rules list persons who are eligible to be appointed as remote proceedings assistants. These individuals include: a judicial officer; a justice of peace; a public servant; a retired public servant/judicial officer; an advocate; a state attorney; local government officer; a diplomat; etc. Such assistants are expected to assist the Court and the parties in conducting the proceedings conveniently and fairly. The Rules require the said assistants to be remunerated by the Court (in criminal proceedings) and by the parties (in civil proceedings) on terms and conditions imposed by the Court.

Regarding the hearing procedure, the Rules direct the proceedings to be conducted in accordance with the relevant procedural laws, and subject to leave from the Court, allows observers to attend the remote proceedings. In procuring the attendance of parties, the

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LEGAL UPDATE

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2 September 2021

Rules oblige the Court to notify parties seven days before the hearing date. Three hours before the hearing commences, the video/teleconference link and other necessary details are to be sent to the parties. A party who does not attend the hearing despite the notice of hearing and the video link or other instructions in that regard is deemed to have defaulted appearance and the relevant law regarding nonappearance of parties apply unless there is a good cause triggering nonappearance. It is further noteworthy that all legal requirements pertaining to advocates etiquette, oath or affirmation and observing that the environment is conducive for Court proceedings are applicable, just as they apply in non-electronic proceedings.

The Rules prohibit recording, publishing or broadcasting of electronic proceedings without obtaining leave of the Court. Under the Rules, the recorded and stored Court proceedings are official records of the Court. Lastly, the Court may pronounce, date, sign and seal a judgment, ruling, decree and order or proceedings electronically and make them available to the parties electronically through the Judiciary Case Management System.

This initiative taken by the Chief Justice in promulgating the Rules is a good move in view of embracing and enhancing technology for timely dispensation of justice. The Rules are welcome especially in moments like these of the pandemic and other challenges that may render physical Court proceedings difficult, particularly for witnesses who may be stationed outside the jurisdiction.

To read a copy of the Rules [click here](#).

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