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THE APPELLATE JURISDICTION ACT,
(CAP. 141)

RULES

(Made under section 12)

THE TANZANIA COURT OF APPEAL (AMENDMENT) RULES, 2024

ARRANGEMENT OF RULES

Title Rule

1. Citation.
2. General amendments.
3. Amendment of rule 3.
4. Addition of rule 4A.
5. Amendment of rule 11.
6. Amendment of rule 12.
7. Amendment of rule 14.
8. Amendment of rule 22.
9. Amendment of rule 34.
10. Amendment of rule 45.
11. Amendment of rule 45A.
12. Amendment of rule 47.
13. Amendment of rule 49.
14. Amendment of rule 50.
15. Amendment of rule 57.

16. Amendment of rule 60.
17. Amendment of rule 65.
18. Amendment of rule 71.
19. Addition of rule 71A.
20. Amendment of rule 72.
21. Amendment of rule 74.
22. Amendment of rule 76.
23. Amendment of rule 78.
24. Amendment of rule 90.
25. Amendment of rule 96.
26. Amendment of rule 102.
27. Amendment of rule 104.
28. Amendment of rule 105.
29. Deletion and replacement of rule 128.
30. Amendment of the First Schedule.
31. Amendment of the Third Schedule.
32. Amendment of the Fourth Schedule.

THE APPELLATE JURISDICTION ACT,
(CAP. 141)

RULES

(Made under section 12)

THE TANZANIA COURT OF APPEAL (AMENDMENT) RULES, 2024

Citation
GN. No.
368 of 2009

1. These Rules may be cited as the Tanzania Court of Appeal (Amendment) Rules, 2024 and shall be read as one with the Tanzania Court of Appeal Rules, hereinafter referred to as “the principal Rules”.

General amendments

2. The principal Rules are amended generally by deleting the word “Judge” wherever it appears and substituting for it the word “Justice”, save where the word “Judge” refers to the Judge of the High Court.

Amendment of rule 3

3. The principal Rules are amended in rule 3 by deleting the definition of the word “Judge”.

Addition of rule 4A

4. The principal Rules are amended by adding immediately after rule 4 the following:

“Procedure to consider
conflicting decisions of
court

4A. Where the Chief Justice is of the opinion that there are grounds for the Court to consider its conflicting decisions, departing from its previous decisions, or that an appeal or application before the Court be heard and determined by

a full bench of the Court, he may constitute a full bench of the Court of not less than five justices for the purpose of considering whether to depart from the previous decision or resolving the conflicting decisions of the Court or otherwise, or determining an appeal or application, as the case may be.”.

Amendment of rule 11

5. The principal Rules are amended in rule 13(3) by deleting the words “the Court,” appearing between the word “but” and “may” and substituting for them the words “a single Justice”.

Amendment of rule 12

6. The principal Rules are amended in rule 12, by-

(a) adding immediately after subrule (2), the following:

“(3) Where a document is filed manually under subrule (2), it shall be filed together with its electronic copy in a PDF format.

(4) Save as provided for under rule 54(2), whenever any document or its copy is required to be filed in Court under these Rules, it shall be filed in five copies and with such additional number of copies which are proportional to the number of parties to be served;” and

(b) renumbering subrules (3), (4), (5) and (6) as subrules (5), (6), (7) and (8), respectively.

Amendment of rule 14

7. The principal Rules are amended in rule 14,
by-

(a) deleting subrule (10) and substituting for it
the following:

“(10) A person aggrieved by the
decision of the Registrar under this rule
may refer the matter to a single Justice
for an *ex-parte* determination.”;

(b) adding immediately after subrule (10) as
substituted the following:

“(11) An application under
subrule (10) may be made-

- (a) orally at the time when
the decision is made; or
- (b) in writing within five
days of the decision.

(12) Where the decision of the
Registrar is reversed by a single Justice,
the appellant or applicant may file his
appeal or application and the time spent
from the date when he filed the rejected
appeal or application and the decision of
the single Justice in the reference was
pronounced, shall be excluded in
computing the time for filing the appeal
or application.”.

Amendment of rule 22

8. The principal Rules are amended in rule 22
by adding immediately after subrule (9) the following:

“(10) Powers to direct
substituted service under this rule may
be exercised by the Registrar.”.

Amendment of rule 34

9. The principal Rules are amended in rule 34,
by-

(a) deleting a full stop appearing at the end of

subrule (1) and substituting for it a colon and the following proviso:

“Provided that, the requirement to attach copies of cases shall not apply to reported decisions.”; and

(b) adding immediately after subrule (4) the following:

“(5) For purposes of this rule, the phrase “reported decisions” includes decisions published on any official online platform managed by the Judiciary of Tanzania.”.

Amendment of rule 45

10. The principal Rules are amended in rule 45(b) by deleting its proviso and substituting for it the following:

“Provided that-

- (i) where an application for leave is made to the Court after it has been refused by the High Court, it shall be made on same grounds relied upon before the High Court; and
- (ii) in computing the time for lodging an application for leave in the court as provided for under this rule, the Registrar of the High Court shall exclude such time required for preparation of copy of the decision as specified under rule 49(3).

Amendment of rule 45A

11. The principal Rules are amended in rule 45A, by-

(a) deleting a full stop at the end of subrule (1) and substituting for it a colon and the following proviso:

“Provided that, such an application shall be made on same

grounds relied upon before the High Court.”; and

- (b) deleting subrule (3) and substituting for it the following:

“(3) Every application under subrule (1) shall be accompanied by a copy of the decision appealed against and where application has been made to the High Court for extension of time and refused, by a copy of a chamber summons, its supporting affidavit and the decision of the High Court refusing the application.”.

Amendment of rule 47

12. The principal Rules are amended in rule 47 by deleting the words is “made” appearing between the words “application” and “either” and substituting for it the word “is to be made”.

Amendment of rule 49

13. The principal Rules are amended in rule 49 by deleting subrule (3) and substituting for it the following:

“(3) Every application for leave to appeal shall be accompanied by a copy of the decision against which it is desired to appeal and where application has been made to the High Court for such leave by a copy of a chamber summons, its supporting affidavit and the copy of the decision of the High Court refusing the application.”.

Amendment of rule 50

14. The principal Rules are amended in rule 50, by-

- (a) deleting subrule (1) and substituting for it the following:

“(1) Whenever formal

application is made to the Court or Registrar for leave to amend any document, the amendment for which leave is sought shall be set out in writing and served on the respondent before hearing of the application or, if that is not practicable, handed to the Court or Registrar and to the respondent at the time of the hearing.”; and

- (b) adding immediately after subrule (2) the following:

“(3) Powers under this rule shall be exercised by-

- (a) the Registrar, where the application is uncontested;
- (b) a single, Justice, where the application is contested; or
- (c) the Court, when the application is made in the course of hearing.

(4) Where the respondent does not contest the application under this rule, he shall lodge a notice of consent to the application in the appropriate registry in a notice substantially in Form M set out in the First Schedule to these Rules.”.

Amendment of rule 57

15. The principal Rules are amended in rule 57, by-

- (a) deleting subrules (3) and (4) and substituting for them the following:

“(3) A civil application shall not abate on the death of the applicant or the respondent but the Registrar shall, upon informal application in writing by any

interested person, cause the legal representative of the deceased to be made a party in place of the deceased and therefrom, the record shall be in the name of such legal representative.

(4) Where no application is made by the legal representative under subrule (2) or interested party under subrule (3) within twelve months from the date when the Court was notified of the death, the application shall, if the deceased person is the applicant, abate and if the deceased person is the respondent, proceed in the absence of the respondent.”; and

(b) adding immediately after subrule (5) the following:

“(6) This rule shall not prevent the Court from exercising the powers under this rule when an application is made in the course of hearing.”.

Amendment of rule 60

16. The principal Rules are amended in rule 60-
- (a) by adding the phrase “Subject to the provisions of rule 28 of these Rules,” at the beginning of subrule (1); and
 - (b) in subrule (2), by-
 - (i) deleting paragraph (b);
 - (ii) renaming paragraphs (c) and (d) as paragraphs (b) and (c), respectively; and
 - (iii) deleting the words “or (b)” in paragraph (c) as renamed.

Amendment of rule 65

17. The principal Rules are amended in rule 65, by-

- (a) deleting subrule (1) and substituting for it the following:

“Save where a revision is initiated by the Court on its own accord, an application for revision shall be by notice of motion which shall state the grounds of the application and shall be accompanied by a copy of proceedings, the decision sought to be revised and all relevant documents that are necessary for the Court to exercise its revisional jurisdiction.”; and

- (b) deleting a full stop at the end of subrule (4) and substituting for it a colon and the following proviso:

“Provided that, in computing the time within which the application for revision is to be instituted, there shall be excluded such time as may be certified by the Registrar of the High Court as having been required for the preparation and delivery of that copy to the applicant and the requirements to apply for copies of proceedings under rule 90 shall apply *mutatis mutandis*.”.

Amendment of rule 71

by-

18. The principal Rules are amended in rule 71,

- (a) adding the words “save where the notice of appeal is lodged by the Director of Public Prosecutions,” immediately after the word “lodged” appearing in subrule (1);
- (b) adding immediately after subrule (1), the following:

“(2) Where a notice of appeal is lodged by the Director of Public

Prosecutions-

- (a) the Registrar shall forthwith supply him with a copy of proceedings together with all relevant documents for the purpose of appeal under this rule; and
- (b) he shall prepare the record of appeal together with the memorandum of appeal and lodge them in the appropriate registry in accordance with the provisions of these Rules.

(3) The Director of Public Prosecutions shall, within twenty-one days of lodging the memorandum and record of appeal, serve copies thereof to the respondent.

(4) Where the Director of Public Prosecutions fails to prepare and lodge the record and memorandum of appeal under subrule (2) within the prescribed time, he shall be deemed to have withdrawn his notice of appeal and the Court may accordingly mark the notice of appeal withdrawn:

Provided that, where there is a cross-appeal, the Registrar shall proceed to prepare the record for the purpose of cross-appeal and the provisions of these Rules regulating an appeal filed by an appellant other than the Director of Public Prosecutions shall apply.”; and

- (c) renumbering subrules (2), to (6), as subrules (5) to (8) respectively.

Addition of rule 71A

19. The principal Rules are amended by adding immediately after rule 71 the following:

“Supplementary
record

71A.-(1)

Where the case is called on for hearing and the Court is of the opinion that any document referred to in rule 71(5) is omitted from the record of appeal, it may, on its own motion or upon an informal or formal application, grant leave to the appellant to lodge a supplementary record of appeal.

(2) Where a leave has been granted under subrule (1) and the supplementary record is lodged, no subsequent application for lodging a supplementary record shall be entertained by the Court, and the Court shall strike out the appeal unless it is satisfied that the incompleteness of the

record does not vitiate the appeal, in which case, the Court may proceed with hearing and determination of the appeal.

(3) The provisions of this rule shall only apply to an appeal filed by the Director of Public Prosecutions.”.

Amendment of rule 72

by-

20. The principal Rules are amended in rule 72

- (a) adding the words “other than the Director of Public Prosecutions” immediately after the word “appellant” appearing in subrule (1);
- (b) adding immediately after subrule (1) the following:

“(2) Where the appellant is the Director of Public Prosecutions, he shall lodge the record of appeal and memorandum of appeal within sixty days of being supplied with the copies of proceedings:

Provided that, where the appeal lies with certificate on a point of law, in computing time within which to lodge the record of appeal and memorandum of appeal, there shall be excluded such time as may be necessary for obtaining a certificate on a point of law and a copy of a certificate thereof.”; and

- (c) renumbering subrules (2), (3), (4) and (5)

as subrules (3), (4), (5) and (6), respectively.

Amendment of rule 74

21. The principal Rules are amended in rule 74 by deleting subrule (3) and substituting for it the following:

“(3) A person who has lodged a statement under this rule may, with the leave of the Court, address the Court in clarifying his statement at the hearing of the appeal.”.

Amendment of rule 76

22. The principal Rules are amended in rule 76(1) by adding the words “other than the Director of Public Prosecutions” “appellant”. And “and”

Amendment of rule 78

23. The principal Rules are amended in rule 78(3) by adding the words “from the date when the Court was notified of the death” immediately after the word “months”.

Amendment of rule 90

24. The principal Rules are amended in rule 90, by-

- (a) adding the words “within thirty days unless the respondent acknowledges receipt or the Court orders otherwise” immediately after word “respondent” appearing at the end of subrule (3); and
- (b) adding immediately after subrule (5) the following:

“(6) Notwithstanding the provisions of this rule, where an appeal lies with leave or certificate on a point of law, in computing time within which to institute an appeal, there shall be excluded such time as may be necessary for obtaining leave or a certificate on a point of law and copies of such order, as

the case may be.”.

Amendment of rule 96

25. The principal Rules are amended in rule 96 by deleting subrule (8) and substituting for it the following:

“(8) Where leave has been granted under subrule (7) of this rule, and the supplementary record is lodged, no subsequent application for filing a supplementary record shall be entertained by the Court, and the Court shall strike out the appeal unless it is satisfied that the incompleteness of the record does not vitiate the appeal, in which case the Court may proceed with hearing and determination of the appeal.”

Amendment of rule 102

26. The principal Rules are amended in rule 102 by deleting subrules (4) and (5) and substituting for them the following:

“(4) Where all the parties to the appeal consent to the withdrawal of the appeal and the respondent does not intend to ask for costs, the appellant may lodge in the appropriate registry a notice of consent to withdraw an appeal substantially in Form N set out in the First Schedule to these Rules signifying the consent of the parties and thereupon, the Registrar shall mark the appeal withdrawn and strike it off the list of pending appeals.

(5) Where all the respondents do not consent to the withdrawal of the appeal, the appeal shall stand dismissed with costs, except as against any respondent who has consented, unless

the court, on the application by the appellant, otherwise orders.”.

Amendment of rule 104

27. The principal Rules are amended in rule 104 by adding immediately after subrule (2) the following:

“(3) Upon receipt of the notice under subrule (1), the Registrar shall, as soon as practicable, endorse the notice of cross-appeal or notice of grounds for affirming decision of the High Court withdrawn.”.

Amendment of rule 105

28. The principal Rules are amended in rule 105, by-

(a) deleting subrule (1) and substituting for it the following:

“(1) An appeal shall not abate on the death of the appellant or the respondent but the Registrar shall, upon informal application in writing by any interested person, cause the legal representative of the deceased to be made a party in the place of the deceased and therefrom, the record shall be in the name of the legal representative.”; and

(b) adding immediately after subrule (3) the following:

“(4) This rule shall not prevent the Court from exercising the powers under this rule when an application is made in the course of hearing.”.

Deletion and replacement of rule 128

29. The principal Rules are amended by deleting rule 128 and substituting for it the following:

“Relief from fees 128.-(1) Where in any

and security in civil appeals appeal or application of a civil nature, the Registrar is satisfied on application that the appellant or applicant lacks the means to pay the required fees or to deposit the security for costs, he may by order-

(a) remit such fee in whole or in part;

(b) require the appeal to be lodged without security for costs being deposited, or by depositing of any specified sum less than the amount fixed by rule 120; and

(c) require the record of appeal to be prepared by the Registrar of the High Court without payment or on payment of any specified sum less than the fee specified in the Second Schedule to these Rules.

(2) Application under subrule (1) shall be made *ex-parte* and determined by the Registrar within fourteen days from the date of lodging the application.

(3) An order for remission of fee under this rule may be given conditionally on the intended appellant undertaking to pay the fees or the balance of the fees out of any money or property he may recover in or in consequence of the appeal.

(4) Where an application under this rule is refused, the applicant may, within fourteen days of such refusal, file a reference against that decision to a single Justice.

(5) A fee shall not be payable on the lodging of an application under this rule.

(6) Fees or security for costs shall not be payable or deposited by an appellant or applicant who has been granted legal aid under any legal aid scheme authorised by the Chief Justice.

(7) The Registrar may take such action as he may think necessary to enforce any undertaking given in accordance with subrule (3).”.

Amendment of
First Schedule

30. The principal Rules are amended in the First Schedule, by-

- (a) deleting the words “Mr. Justice” appearing in Form B, Form B/1, Form C, Form C1, Form D, Form E, Form G, Form H, Form I, Form J, and Form K and

- substituting for them the words “Hon....., Judge”;
- (b) deleting the words “Hon. J.” appearing in Form K and substituting for them the words “Hon....., Judge”;
- (c) deleting the words “Justice/Judge” appearing in Form L and substituting for them the words “Hon....., Judge”; and
- (d) adding immediately after Form L, the following new Forms:

“FORM M
(Made under rule 50(4))

In the Court of Appeal of Tanzania at
 Criminal/Civil Application No of
20.....
 In the matter of an intended appeal/Criminal/Civil Appeal/Application No
 of 20.....
 between.....
 Appellant
 and Respondent (Appeal from the
 of the High Court of
 at.....(Hon....., Judge)
 Dated 20..... in
 Criminal/Civil Application/Appeal No of
20.....)

NOTICE OF CONSENT TO AN APPLICATION

I/We....., the above-named respondent, having been served with the Notice of Motion in Civil Application No..... of 20.... lodged at.....Registry/Sub-Registry on.....day of.....,20....., do hereby give notice that I/We do not intend to contest the application.

Signed.....
 Respondent/Advocate for the Respondent
 To: The Registrar/Deputy Registrar of the Court of Appeal of Tanzania at

.....
Copies to be served on
Lodged in the Registry/sub-Registry at on the
..... day of 20.....

.....
Registrar

FORM N
(Made under rule 102 (4))

In the Court of Appeal of Tanzania at
.....
Civil. Appeal No.....of
20.....

between

.....Appellant

and

.....Respondent
(Appeal from the decision of the High Court of

.....
at.....(Hon....., Judge).

Dated.....20..... in Civil Appeal No..... of 20.....

NOTICE OF CONSENT TO WITHDRAW AN APPEAL

NOTICE IS HEREBY GIVEN THAT
....., the appellant does not intend to
further prosecute the appeal and whereas the respondent has agreed, the
appellant and the respondent hereby consent to the withdrawal of the appeal
without costs.

Dated this.....day of.....20.....

Signed..... Appellant/Advocate for the
Appellant.

Signed..... Respondent/Advocate for the
Respondent.

To: The Registrar of the Court of Appeal of Tanzania at
.....copy to be served to the Sub-Registry at
..... on theday of.....20.....

.....
Registrar”

Amendment of
Third Schedule

31. The principal Rules are amended in the Third
Schedule-

(a) in paragraph 2 by deleting subparagraph (1) and
substituting for it the following:

“(1) Where costs are to be taxed, a party
or advocate for the party to whom the costs were
awarded shall lodge his bill with the taxing
officer and shall, before or within seven days
after lodging it, serve a copy of it on the party or
the advocate for the party liable to pay it.”;

(b) in paragraph 2, by deleting subparagraph (2) and
substituting for it the following:

“(2) A bill of costs shall be lodged within sixty
days after the decision awarding the costs:

Provided that the Registrar may, upon good
cause, being shown, extend the time before or after
expiration of sixty days.”;

(c) by deleting the words “or a Judge” appearing at the
end of paragraph;

(d) in paragraph 9, by deleting the figures “Shs. 100/=”
appearing at the end of subparagraph (1) and
substituting for them figures “Shs. 1,000,000/=”; and

(e) in paragraph 19, by deleting the scales of costs and
substituting for them the following:

No.	Item	Fees
1.	For instructions to file a notice of appeal.	100,000/=
2.	For instructions to act for a respondent where an appeal is subsequently instituted.	100,000/=

Tanzania Court of Appeal (Amendment) Rules

GN. No. 188 (Contd)

	Where no appeal is subsequently instituted, to cover all costs arising out of the notice of appeal, other than disbursements and those of any application to the High Court or the Court.	300,000/=
3.	For drawing a notice of motion.	100,000/=
4.	For drawing an affidavit, for each folio or part thereof, of exhibits with a minimum fee of.	10,000/= 20,000/=
5.	For drawing a notice of appeal.	50,000/=
6.	For drawing a notice of address for service.	50,000/=
7.	For drawing a memorandum of appeal.	500,000/=
8.	For drawing a notice of cross-appeal.	100,000/=
9.	For drawing a notice of grounds for affirming a decision.	100,000/=
10.	For drawing an order, for each folio or part thereof with a minimum fee of.	10,000= 20,000/=
11.	For drawing a bill of costs, for each folio or part thereof.	30,000/=
12.	For drawing any other necessary document to be filed or used in the Court, for each folio or part thereof.	30,000/=
13.	For making any necessary copies, for each folio or part thereof for the first copy for each subsequent copy.	3,500/= 1,000/=
14.	For attendance at the Registry.	50,000/=
15.	For attending before the Registrar for the first 15 minutes, for each subsequent 15 minutes.	30,000/= 50,000/=
16.	For attending before a Judge in chambers for the first 30 minutes.	50,000/=
17.	For attending in Court, where the matter was listed but not heard, for each day.	50,000/=
18.	For attending in Court on the hearing of any application or Appeal for the first 30 minutes for each subsequent 30 minutes.	50,000/= 30,000/=
19.	For attending in Court to receive judgment.	50,000/=

Amendment of
Fourth
Schedule

32. The principal Rules are amended by deleting the Fourth Schedule and substituting for it the following:

Tanzania Court of Appeal (Amendment) Rules

GN. No. 188 (Contd)

“FOURTH SCHEDULE

(Made under rule 31(3))

Fees and expenses of an advocate assigned in terms of the provisions of subrules (1) and (2) of rule 31 shall be as follows:

No.	Item	Fees
1.	In criminal matters: (a) Criminal application. (b) Criminal Appeals.	150,000/= 300,000/=
2.	In Civil matters: (a) Civil Application. (b) Civil Appeal.	200,000/= 350,000/=

Dar es Salaam,
11th March, 2024

IBRAHIM HAMIS JUMA
Chief Justice