



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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CONTENTS

Page

GOVERNMENT NOTICE

No. 256 Amendment of Rules of Supreme Court of Namibia: Supreme Court Act, 1990 1

Government Notice

OFFICE OF THE JUDICIARY

No. 256

2022

AMENDMENT OF RULES OF SUPREME COURT OF NAMIBIA: SUPREME COURT ACT, 1990

Under section 37 of the Supreme Court Act, 1990 (Act No. 15 of 1990) and with the approval of the President of the Republic of Namibia, I -

- (a) have amended the Rules of the Supreme Court of Namibia as set out in the Schedule and determine that the said rules come into operation on 15 November 2022; and
- (b) withdraw Government Notice No. 214 of 28 July 2022.

P. S. SHIVUTE
CHIEF JUSTICE

Windhoek, 10 August 2022

SCHEDULE

Definitions

1. In these rules –

“the Rules” means the Rules promulgated under Government Notice No. 249 of 29 September 2017.

Amendment of rule 1 of Rules

2. Rule 1 of the Rules is amended by the insertion after the definition of “process” of the following definition:

“remote hearing” means the hearing of argument via a video conferencing facility in which –

- (a) television sets linked to telephone lines are used to enable two or more persons at different sites to communicate with each other in live sound and vision; or
- (b) the conduct of communication between two or more participants at different sites by using computer networks to transmit audio and video data by internet connection;”.

Insertion of rule 3A in Rules

3. The Rules are amended by the insertion after rule 3 of the following rule –

“Particulars of litigant to be provided

3A. (1) A legal practitioner must in every matter before the court file with the registrar a return set out in Annexure C containing the particulars of the litigant whom he or she represents as contemplated in subrule (4).

(2) If a party to a matter is not represented by a legal practitioner, that party must file the form referred to in subrule (1) together with the notice of motion, notice to oppose or notice of appeal.

(3) The Government Attorney is not required to file the form referred to in subrule (1), except that the Government Attorney must file such form on withdrawing as legal practitioner of record of a party.

(4) The return referred to in subrule (1) must contain the following information about the party whether the party is represented by a legal practitioner or not –

- (a) in the case of a natural person, his or her full names and identity number, if available;
- (b) if the party is a Namibian citizen who is ordinarily resident in Namibia or is any other person ordinarily resident in Namibia, provide his or her –
 - (i) physical address and email address, if available;
 - (ii) postal address;

- (iii) telephone or cellular phone number or both;
 - (iv) workplace telephone number or facsimile number; and
 - (v) personal or workplace email address or both;
- (c) if the party is a Namibian citizen not ordinarily resident in Namibia or is any other person not ordinarily resident in Namibia, provide his or her –
- (i) physical address in the country where he or she ordinarily resides;
 - (ii) an email address, if available;
 - (iii) postal address;
 - (iv) telephone or cellular phone number or both;
 - (v) workplace telephone number or facsimile number; and
 - (vi) personal or workplace email address or both;
- (d) in the case of a close corporation registered in terms of the Close Corporations Act, 1988 (Act No. 26 of 1988) in Namibia, provide –
- (i) its name and registration number;
 - (ii) its postal address;
 - (iii) its registered office as contemplated in section 25 of that Act;
 - (iv) the particulars referred to in paragraphs (a) and (b) of at least one of its members or officers as defined in section 1 of that Act; and
 - (v) the particulars referred to in paragraphs (a) and (b) of its accounting officer appointed in terms of section 59 of that Act;
- (e) in the case of a company registered in terms of the Companies Act, 2004 (Act No. 28 of 2004) in Namibia, provide –
- (i) its name and registered number, postal address and registered office referred to in section 178 of that Act;
 - (ii) the particulars referred to in paragraphs (a) and (b) of at least one director and the secretary referred to in section 223 of that Act including all particulars referred to in section 223(1) of that Act; and
 - (iii) in case of the officer or secretary of any other body corporate, the particulars referred to in paragraph (b) of section 223(1) of that Act;
- (f) in the case of any other Namibian juristic person, provide the particulars referred to in paragraphs (a) and (b) of at least one officer or secretary or a person, running its affairs;

- (g) in the case of any other non-Namibian juristic person including a company, corporation, enterprise, agency, firm, business, institution registered in a country other than Namibia, provide –
- (i) the particulars referred to in paragraph (a) of at least one director, member, officer or secretary or a person running its affairs; and
 - (ii) the particulars referred to in paragraphs (d) or (e), as applicable;
- (h) in the case of a trust which is duly authorised to litigate provide, the particulars referred to in paragraphs (a) and (b) of all the trustees and a reference number given by the Master of the High Court after the trust deed is registered with the Master of the High Court.

(5) The particulars provided under subrule (4) remain binding on the party to whom they relate and may be used by the court or by the other party to effect service of any process on that party or give notice to that party, in case of his or her legal practitioner of record withdrawing, and it becomes necessary for the court or any party to require the presence of that party before the court in relation to the matter to which the return relates.

(6) A party must, if he or she is no longer represented by a legal practitioner or if there is a change in his or her particulars required under subrule (1), as soon as practicable deliver a notice to the registrar and to all the parties in the matter informing them that he or she is no longer represented by a legal practitioner or of the change in particulars required under subrule (1).

(7) If the new particulars are not so delivered as contemplated in subrule (6) within five days of the withdrawal of the legal practitioner of record or change in particulars required under subrule (1), then the old particulars remain binding as contemplated in subrule (5).

(8) A legal practitioner or a party who is not represented by a legal practitioner, must ensure that the information required in the form set out in Annexure C is updated at all times.

(9) If a party fails to comply with any part of this rule, that party may be excluded from the proceedings before the court and the matter may be determined in that party's absence."

Amendment of rule 7 of Rules

4. Rule 7 of the Rules is amended by the substitution for subrules (4), (5), (6) and (7) of the following subrules –

“(4) After receiving a notice of appeal from the party appealing a respondent who intends to oppose the appeal or oppose the appeal and cross appeal must, within 21 days or such longer period as may be allowed on good cause shown –

- (a) file a notice to oppose; or
- (b) file a notice to oppose and cross appeal,

as applicable, with the registrar and the registrar of the court appealed from and serve a copy of such notice on the party appealing.

(5) The notice to cross appeal referred to in subrule (4) must set out the particulars in respect of which the variation of the judgment or order of the court cross appealed from is sought.

(6) If the notice of appeal, notice to oppose the appeal or cross appeal is filed by a legal practitioner he or she must, within 21 days after filing such notice, file a power of attorney authorising him or her to prosecute the appeal or the opposition to the appeal or the cross appeal.”.

Amendment of rule 17 of Rules

5. Rule 17 of the Rules is amended by –

(a) the substitution for subrule (1) of the following subrule –

“(1) In every matter relating to appeals, the appellant, applicant or petitioner must, within 21 days before the hearing or such earlier date as may be determined by the Chief Justice or a judge designated by the Chief Justice -

- (a) lodge four copies of his or her heads of argument together with a list of authorities as referred to in subrule (7)(f), to be quoted in support of each head; and
- (b) serve one copy of his or her heads of argument and list of authorities referred to in paragraph (a) on the respondent or his or her legal practitioner.”; and

(b) the substitution for subrule (3) of the following subrule –

“(3) The respondent must as soon as possible within 10 days before the hearing or such earlier date as may be determined by the Chief Justice or a judge designated by the Chief Justice –

- (a) lodge four copies of his or her heads of argument together with a list of authorities as referred to in subrule (7)(f), to be quoted in support of each head; and
- (b) serve one copy of his or her heads of argument and list of authorities referred to in paragraph (a) on the appellant or his or her legal practitioner.”.

Amendment of rule 20 of Rules

6. The Rules are amended by the substitution for rule 20 of the following rule –

“Oral argument

20. Subject to the discretion of the presiding judge, if an appeal has been set down for one day, the time for argument may not exceed –

- (a) one hour for argument including time that may be used in reply, for the applicant or appellant; and
- (b) one hour for argument by respondent.”.

Insertion of rules 20A and 20B in Rules

7. The Rules are amended by the insertion after rule 20 of the following rules –

“Remote hearing

20A. (1) The oral hearing of an appeal may be conducted by remote hearing.

(2) If the parties agree for the appeal to be conducted by remote hearing referred to in subrule (1) they must within 21 days after receiving the notice of set down, deliver a notice to the registrar requesting that the appeal be conducted by remote hearing.

(3) For purposes of subrule (2) the registrar must –

(a) make appropriate preparations for the remote hearing;

(b) inform the legal practitioners concerned and interested parties, including print media and electronic media practitioners upon request of –

(i) the facility or system that will be used;

(ii) the transmission of the audio and video of the hearing to an open court room;

(iii) the live streaming of the hearing over electronic means, if available;

(iv) how the print media and electronic media practitioners may log in to the remote hearing;

(v) the identities of the judges hearing the case; and

(vi) the date and start time of the remote hearing; and

(c) ensure that the hearing is recorded.

(4) If a party disagrees with any aspect of the procedure of remote hearing, that party must deliver a written submission to the registrar, with notice to all other parties, suggesting other proposals that are appropriate in the circumstances.

(5) On receipt of a submission contemplated in subrule (4) the Chief Justice or a judge designated by the Chief Justice for that purpose must summarily in chambers decide on how the remote hearing will take place.

(6) A hearing conducted in terms of this rule is deemed for all other purposes to be a hearing in accordance with these rules.

Absence of oral argument

20B. (1) In any matter requiring the decision of the court, where there is an agreement between the parties, the Chief Justice may, in order to secure the proper administration of justice when in the opinion of the Chief Justice measures introduced during a State of Emergency proclaimed in terms of the Namibian Constitution are likely to adversely affect the proper conduct of proceedings in the court, direct that the court will determine the matter on the basis of the record and the heads of argument filed in terms of these rules, without the need for hearing oral argument.

(2) If no agreement is reached as contemplated in subrule (1), the court must take a decision as to how to proceed with the matter.

(3) If the judgment or ruling of the court in a matter before court is ready for delivery, the court must direct the registrar to inform the legal practitioners of the –

- (a) date on which the judgment or ruling of the court in the matter is to be posted on the e-justice system; or
- (b) date on which and the time at which the judgment or ruling is to be delivered in open court via video conferencing.

(4) This rule does not apply to a matter where a party is not represented by a legal practitioner.

(5) A hearing conducted in terms of this rule is deemed for all purposes to be a hearing in accordance with these rules.”.

Amendment of rule 25 of Rules

8. Rule 25 of the Rules is amended by –

- (a) the substitution for subrule (5) of the following subrule –

“(5) The taxing master must provide a copy of the tax certificate to each of the parties who may within 14 days of receiving the tax certificate submit contentions in writing to the taxing master.”.

- (b) the deletion of subrule (6).

- (c) the substitution for subrule (7) of the following subrule –

“(6) After receiving the contentions referred to in subrule (5), if any, the taxing master must lay the case, the contentions of the parties and his or her report before the judge designated by the Chief Justice.”.

Insertion of Annexure C in Rules

9. The Rules are amended by the insertion after Annexure B of the following Annexure –

**ANNEXURE C
(RULE 3A)**



**PARTICULARS OF LITIGANTS TO BE PROVIDED IN TERMS OF RULE 3A
OF THE RULES OF COURT**

Instructing Legal Practitioner	Acting on behalf of: <i>(insert party)</i>	
	Name and Surname:	
	Firm:	
	E-mail Address:	
	Direct Land Line:	
	Cell Phone Number:	
	Fax Number:	
Natural Person	Full Names:	
	ID Number:	
	Physical Address:	
	Telephone Number: Home: Work: Cell Phone:	
	Fax Number: E-mail Address:	
Close Corporation or Company	Name and Nature of Entity:	
	Registration Number:	
	Postal Address:	
	Registered Business Address:	
	Particulars of at Least One Member, Director or Officer and of Accounting Officer, Secretary or other Responsible Person of the Entity:	
	Full Names:	
	ID Number:	
	Physical Address:	
	Telephone Number: Home: Work: Cell Phone:	
	Fax Number: E-mail Address:	

Other Juristic Entity or Trust	Name and Nature of Entity:				
	Registration Number / Master's Reference Number:				
	Postal Address:				
	Registered Business Address:				
	Particulars of at Least One Director, Member, Secretary or other Responsible Person and of all Trustees of the Entity:				
	Full Names:				
	ID Number:				
	Physical Address:				
	Telephone Number:		Home:	Work:	Cell Phone:
	Fax Number:		E-mail Address:		
