



Republic of Namibia  
Annotated Statutes

## REGULATIONS

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REGULATIONS MADE IN TERMS OF

# Community Courts Act 10 of 2003

section 32

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## Regulations of Community Courts

Government Notice 237 of 2003

[\(GG 3095\)](#)

came into force on date of publication: 17 November 2003

**as amended by**

**Government Notice 280 of 2018** [\(GG 6753\)](#)

came into force on date of publication: 1 November 2018

**Government Notice 269 of 2022** [\(GG 7904\)](#)

came into force on date of publication: 15 September 2022

**Government Notice 154 of 2023** [\(GG 8100\)](#)

came into force on date of publication: 1 June 2023

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## ARRANGEMENT OF REGULATIONS

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2. Instituting of proceedings in community court
3. Procedure to be observed in community courts
4. Times and places of holding court sittings
5. Keeping of records of evidence and of proceedings in court and custody and disposal of such records and duties of clerk of court in respect of such records
6. Manner of procuring attendance of witnesses
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**Definitions**

1. In these regulations a word or expression that is defined in the Act has the same meaning, and -

“the Act” means the Community Courts Act, 2003 (Act No. 10 of 2003); and

“Traditional Authorities Act” means the Traditional Authorities Act, 2000 (Act No. 25 of 2000).

**Instituting of proceedings in community court**

2. (1) The process of the community court for commencing an action shall be by summons -

- (a) served in accordance with the applicable customary law practice and procedure; and
- (b) calling upon the defendant to appear before the community court to answer to a claim of the plaintiff.

(2) Unless the applicable customary law practice and procedure otherwise requires, the summons shall -

- (a) be issued by the clerk of the court and shall bear his or her signature, the subject matter, date of issue, place, date and time of hearing;
- (b) show the surname of the defendant by which he or she is known to the plaintiff, the defendant’s gender and residence or place of business, and, where known, his or her first name or initials and his or her occupation, and if defendant is sued in his or her representative capacity, the capacity in which he or she is so sued;
- (c) show a full address where the plaintiff will accept service of process, notices or documents and also the postal address;
- (d) show the first name, surname, gender, occupation and the residence or place of business of the plaintiff;
- (e) where the plaintiff sues as cessionary, show the name, address and description of the cedent at the date of the cession, and the date of the cession; and
- (f) where the plaintiff sues in a representative capacity, state the capacity in which he or she sues.

**Procedure to be observed in community courts**

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3. A community court when conducting its proceedings shall observe its customary law practice and procedure which had been observed for years, but only to an extent it considers fair and just in accordance with the principles of fairness and natural justice contemplated in section 19.

**Times and places of holding court sittings**

4. (1) Community court sittings shall only be held on weekdays and shall not be held on Saturdays, Sundays and Public Holidays.

(2) A community court shall not sit for more than eight hours during each day.

(3) Notwithstanding subregulation (1) and (2), the Minister may in writing direct that community court sittings be held at such other times and at places as the Minister considers appropriate.

[regulation 4 substituted by GN 280/2018]

**Keeping of records of evidence and of proceedings in court and custody and disposal of such records and duties of clerk of court in respect of such records**

5. (1) The record of proceedings to be recorded in writing by the clerk of the community court in terms of section 18(2) of the Act shall include -

- (a) any oral evidence given in court;
- (b) any objection made to any evidence received or tendered;
- (c) any judgment given by the court; and
- (d) any record of any inspection *in loco*.

(2) The clerk of the community court shall also mark each document put in evidence and note such mark on the record.

(3) The clerk of the community court shall furnish copies of the records of the proceedings of the court referred to in subregulation (1) to the magistrate's court and the Permanent Secretary: Justice within a period of 60 days from the date a record was made.

(4) Any person, upon request made to the Permanent Secretary: Justice, or the clerk of the community court concerned, may obtain a copy of the record of the proceedings of the court referred to in subregulation (1) on payment of a fee of N\$ 1,50 per folio.

**Manner of procuring attendance of witnesses**

6. (1) The process of community court for procuring the attendance of any person to give evidence on a subject matter or on any aspect thereof or to produce any book, paper or document shall be in accordance with the applicable customary law practice and procedure, otherwise, it shall be by subpoena issued by the clerk of the court and sued out by the party desiring the attendance of such person.

(2) Service of a subpoena on a witness may be effected -

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- (a) in accordance with the applicable customary law practice and procedure; or
- (b) through the messenger of the court, if the party suing out the subpoena so desires at his or her own expense.

(3) There shall be handed to the messenger of the court (if the party suing out the subpoena desires it to be served through the messenger) together with the subpoena so many copies of the subpoena as there are witnesses to be summoned.

**Appointment of interpreters and their allowances**

7. An interpreter referred to in section 15 of the Act shall -
- (a) be a competent person who is sufficiently conversant in the language that a community court has decided to use during its proceedings and also in the language he or she is called upon to translate into and from;
  - (b) be appointed by the clerk of the court;
  - (c) be paid the allowance set out in Table D; and
  - (d) take an oath or make an affirmation before the Justice presiding over the matter in the form set out below -

“I, .....(full name), do swear/solemnly and sincerely affirm and declare that I shall truly and correctly to the best of my ability interpret into and from the language I am called upon to interpret and from and into the language being used in this proceedings. So help me God.”

**Service or execution of process of community court**

8. (1) Service or execution of process of a community court referred to in section 17 of the Act shall be effected in accordance with the applicable customary law practice and procedure, otherwise it shall be effected in accordance with this regulation.

(2) A party requiring service or execution of process of community court by the messenger of the community court shall deliver to the messenger the original of such process together with as many copies thereof as there are persons to be served.

(3) The messenger of the community court to whom a process is entrusted for service or execution shall in writing notify -

- (a) the clerk of the community court and the party who sued out the process that service or execution has been duly effected, stating the date and manner of service or the result of execution and return that process to the clerk; or
  - (b) the party who sued out the process that he or she has been unable to effect service or execution, and of the reason for such inability, and return the said process to such party, but the messenger shall keep a record of any process so returned.
- (4) The messenger of the community court -

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- (a) shall effect the service or execution of the process of the community court without any avoidable delay;
- (b) has power to call upon any member of the Namibian Police Force to render him or her aid, in any case where resistance to the due service or execution of the process of the community court has been met with or reasonably anticipated.

**Business hours for office of clerk of community court**

- 9.** Unless the customary law practice and procedure provides otherwise -
- (a) the business hours for the office of the clerk of the community court start at 8h00 and end at 17h00;
  - (b) the office of the clerk of the community court shall be closed on every Saturday, Sunday and public holiday.

**Translation of community court records**

**10.** (1) A community court shall cause its records which are a subject of appeal to the magistrate's court to be translated into the official language.

(2) A party to the matter on appeal to the magistrate's court may cause the records referred to in subsection (1) to be translated into the official language by a sworn translator at his or her own expense.

**Appeal against order or decision of community court**

**11.** (1) A party to any proceedings in a community court who is aggrieved by any order or decision of that community court may appeal to -

- (a) the same community court, if that community court in terms of section 2(5) of the Act comprises a body of appeal and is vested with the jurisdiction to hear and determine any appeal relating to a matter referred to in section 12(a) of the Act; or
- (b) the magistrate's court, if -
  - (i) the community court does not comprise a body of appeal vested with the jurisdiction to hear and determine any appeal; or
  - (ii) it is a further appeal against any appeal judgment made by the court referred to in paragraph (a).

(2) Upon request in writing by any party within 14 days from the date of the judgment of the community court, or within such extended period as the court may allow, the clerk of the community court shall -

- (a) within 21 days of the request, supply the party with a copy of the record of proceedings, including a written judgment showing -
  - (i) the facts the Justice found to be proved; and
  - (ii) the Justice's reasons for the order or decision.

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(b) after supplying the party with a copy of the record of proceedings referred to in paragraph (a), forthwith endorse on the original minutes of record the date on which the copy was so supplied.

(3) An appeal under subsection (1)(b) shall be noted by the delivery of notice to the clerk of the magistrate's court within 30 days from the date of the order or decision appealed against or within such extended period as the magistrate's court may allow.

(4) A notice of appeal shall state -

- (a) whether the whole or a part of the judgment is appealed against, and if it is a part, then what part;
- (b) the grounds of appeal, specifying the findings of fact or rulings of law appealed against, and whether it is a further appeal; and
- (c) the name of -
  - (i) the magistrate's court to which the appeal is noted;
  - (ii) the community court whose order or decision is appealed against; and
  - (iii) the parties to the appeal.

### **Remunerations and allowances**

**12.** Remunerations and allowances payable under the Act are set out in Tables A, B, C and D.

*Take note that in terms of section 10(3) of the Act, a Justice or clerk or messenger of the court who receives remuneration as a traditional leader or a secretary under the Traditional Authorities Act shall not be entitled to allowances or remuneration under the Act.*

**TABLE A**  
**ALLOWANCES PAYABLE TO JUSTICES**  
 (Section 10(2), regulation 12)

[Table A is substituted by GN 269/2022 and by GN 154/2023.]

For every community court session:

- (a) an attendance sitting allowance is payable at the rate of N\$50,00 per hour or a part of the hour;
- (b) an attendance is to be calculated from the hour from which the case commences to the hour at which judgement is given or reserved, or to the hour at which the Justice is expressly released by the community court from further attendance, whichever is earlier;
- (c) when the case is adjourned, postponed or settled, attendance is to be calculated from the hour from which a case commences to the hour at which the case is adjourned, postponed

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or settled, or to the hour at which the Justice is expressly released by the community court from further attendance, which ever is the earlier;

- (d) a justice who has neither a residence within 2 to 100 kilometres of the place of sitting of the community court is also entitled to a travel allowance at the rate of N\$3,50 per kilometre for each journey actually and necessarily taken between the place of sitting of the community court and his or her residence or place of business;

**[The phrase “a justice who has neither a residence within 2 to 100 kilometres of the place of sitting of the community court” does not make sense; this phrase may have intended to refer to “a justice who has neither a residence nor a place of business within x kilometres of the place of sitting of the community court”, based on the remainder of the wording of paragraph (d).]**

- (e) a justice who has neither a residence within 2 to 150 kilometres of the place of sitting of the community court is also entitled to public transport for each journey actually and necessary taken between the place of sitting of the community court and his or her residence or place of business;

**[The phrase “a justice who has neither a residence within 2 to 150 kilometres of the place of sitting of the community court” does not make sense; this phrase may have intended to refer to “a justice who has neither a residence nor a place of business within x kilometres of the place of sitting of the community court”, based on the remainder of the wording of paragraph (e).  
The word “necessary” should be “necessarily”.]**

- (f) only three justices may be paid the allowance contemplated in paragraphs (a) to (e); and
- (g) a justice may be paid a subsistence allowance at a rate of N\$800,00 for attending a training workshop.

**TABLE B**  
**ALLOWANCES PAYABLE TO ASSESSORS**  
(Sections 7(5) and 27(5), regulation 12)

**[Table B is substituted by GN 269/2022 and by GN 154/2023.]**

For every community court session:

- (a) an attendance sitting allowance is payable at the rate of N\$30,00 per hour or a part of the hour;
- (b) an attendance is to be calculated from the hour from which the case commences to the hour at which judgement is given or reserved, or to the hour at which the assessor is expressly released by the community court from further attendance, whichever is the earlier;
- (c) when the case is adjourned, postponed or settled, attendance is to be calculated from the hour from which case commence to the hour at which the case is adjourned, postponed or settled, or to the hour at which the assessor is expressly released by the community court from further attendance, whichever is the earlier;

**[The phrase “the hour from which case commence” should be “the hour from which the case commences”.]**

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- (d) an assessor who has neither a residence within 2 to 100 kilometres of the place of sitting of the community court is also entitled to a travel allowance at the rate of N\$3,50 per kilometre for each journey actually and necessarily taken between the place of sitting of the community court and his or her residence or place of business;

[The phrase “an assessor who has neither a residence within 2 to 100 kilometres of the place of sitting of the community court“ **does not make sense; this phrase may have intended to refer to “an assessor who has neither a residence nor a place of business within x kilometres of the place of sitting of the community court”, based on the remainder of the wording of paragraph (d).**]

- (e) an assessor who has neither a residence within 2 to 150 kilometres of the place of sitting of the community court is also entitled to public transport for each journey actually and necessary taken between the place of sitting of the community court and his or her residence or place of business;

[The phrase “an assessor who has neither a residence within 2 to 150 kilometres of the place of sitting of the community court“ **does not make sense; this phrase may have intended to refer to “an assessor who has neither a residence nor a place of business within x kilometres of the place of sitting of the community court”, based on the remainder of the wording of paragraph (e).**  
**The word “necessary” should be “necessarily”.**]

- (f) only three assessors may be paid the allowances contemplated in paragraph (a) to (e);
- (g) an assessor may be paid a subsistence allowance at a rate of N\$800,00 for attending a training workshop.

[GN 269/2022 states that “Regulation 12 of the Regulations is amended by the substitution for subregulation (1) of the following subregulation”, with this statement being followed by new versions of Tables A and B. However, regulation 12 does not contain any subregulations; it consists only of the statement that “Remunerations and allowances payable under the Act are set out in Tables A, B, C and D”, followed by an explanatory note and Tables A-D. Thus, it is not clear if Tables C and D were intended to remain in place or to be omitted. Since regulation 12 apparently still refers to “Tables A, B, C and D”, it has been assumed that only Tables A and B were meant to be replaced, with Tables C and D remaining unchanged. This interpretation must be correct, since Table C and Table D were both subsequently substituted by GN 154/2023.]

**TABLE C**  
**ALLOWANCES PAYABLE TO INTERPRETERS**  
(Section 32(1), regulation 12)

[Table C is substituted by GN 154/2023.]

1. For every community court session -
  - (a) an attendance sitting allowance is payable at the rate of N\$55,00 per hour or a part of the hour;
  - (b) attendance is to be calculated from the hour from which a case commence to the hour at which judgement is given or reserved, or to the hour at which the interpreter is expressly released by the community court from further attendance, whichever is the earlier;

[The word “commence” should be “commences”.]



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- (c) when the case is adjourned, postponed or settled, attendance is to be calculated from the hour from which the case commence to the hour at which the case is adjourned, postponed or settled, or to the hour at which the interpreter is expressly released by the community court from further attendance, whichever is the earlier; and

[The word “commence” should be “commences”.]

- (d) an interpreter who has neither a residence nor a place of business within 2 kilometres of the place of sitting of the community court is also entitled to a travel allowance at the rate of N\$3,50 per kilometre for each journey actually and necessary taken between the place of sitting of the community court and his or her residence or place of business.

[The word “necessary” should be “necessarily”.]

2. An interpreter may be paid a subsistence allowance at a rate of N\$800,00 for any interpreting services provided at a training workshop.

**TABLE D**  
**RENUNERATION AND ALLOWANCES PAYABLE TO CLERKS**  
**AND MESSENGERS OF COMMUNITY COURT**  
(Section 10(2), regulation 12)

[Table D is substituted by GN 154/2023. The word “REMUNERATION” is misspelt in the *Government Gazette*, as reproduced above.]

1. A messenger of a community court may be paid -
- (a) as remuneration an amount of N\$1800,00 per month;
  - (b) a thirteenth cheque equal to the monthly remuneration at the end of each succeeding year;
  - (c) a subsistence allowance at a rate of N\$800,00 for attending a training workshop; and
  - (d) a travel allowance at a rate of N\$4,00 for each kilometre travelled to serve court process.
2. A clerk of a community court may be paid -
- (a) a remuneration an amount of N\$3000,00 per month;
- [The initial word “a” was probably intended to be “as”, as in paragraph 1(a) above.]
- (b) a thirteenth cheque equal to the monthly remuneration at the end of each succeeding year;
  - (c) a subsistence allowance at a rate of N\$800,00 for attending a training workshop; and
  - (d) a transport allowance at the rate of N\$800,00 per month.