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Supreme Court Act

The Supreme Court Rules

Legal Notice 101 of 2020

Legislation as at 20 August 2025

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The Supreme Court Rules (Legal Notice 101 of 2020)
Contents

1. Citation 1
2. Interpretation 1
3. Scope and objectives 2
Part II – ADMINISTRATION OF THE COURT 2
4. Duties of the President 2
5. Duty Judge 2
6. Role of the Registrar 2
7. Sittings of the court 3
8. Language of the Court 3
9. Sealing of Court documents 3
10. Registry 3
11. Maintenance of the register 3
Part III – CASE MANAGEMENT 3
12. Filing of documents 3
13. Form of documents 4
14. Hours of filing documents 4
15. Computation and extension of time 4
16. Service and transmission of documents 4
17. Further pleadings 5
17A. Amendment of pleadings 5
17B. Right of audience 5
18. Representation in Court 5
19. Participation of friends of the Court 6
20. Assignment of advocate by court 6
21. Test case 6
22. Scheduling conference 6
23. List and bundle of authorities 7
24. Interested parties 7
Part IV – CONDUCT OF PROCEEDINGS 8
25. Hearing in Court 8
26. Admission of additional evidence 8
27. Withdrawal of proceedings 9
28. Judgment 9
29. Decrees and orders 9

30. Execution 9
Part V – APPLICATIONS 10
31. Interlocutory applications 10
32. Urgent applications 10
33. Application for certification 10
34. Non-attendance at hearing of application 11
35. Abatement of applications 11
Part VI – APPEALS 12
36. Notice of Appeal 12
37. Service of Notice of Appeal 12
38. Institution of appeal 12
39. Form of Petition of an appeal 13
40. Content of a record of Appeals from the Court of Appeal 13
41. Content of a record of Appeal from other courts or tribunals 13
42. Response to petition of appeal 14
42A. Summary proceedings in appeals 14
43. Abatement of appeals 14
44. Death of respondent before service of notice 14
45. Address for service 15
46. Deleted by L.N. 138/2025, r. 15 15
47. Notice of cross-appeal 15
48. Notice of grounds for affirming decision and service 15
49. Withdrawal of notice of cross-appeal, or notice of grounds for affirming decision 16
Part VII – ADVISORY OPINIONS 16
50. Reference for an advisory opinion 16
51. Participants in a reference 16
52. Notice of reference 16
53. Determining a reference 17
Part VIII – PETITION ON DECLARATION OF STATE OF EMERGENCY 17
54. Filing a petition 17
55. Service and hearing of petition 17
Part IX – CONTEMPT OF COURT 18
56. Contempt in the face of the Court 18
57. Cognizance of contempt in other cases 18
58. Penalty for contempt 18

Part X – FEES AND COSTS 18
59. Assessment of Fees payable 18
60. Taxation of costs 18
61. Costs improperly incurred 19
62. Reference on taxation 19
63. Waiver of court fees 19
Part XI – GENERAL PROVISIONS 19
64. Practice directions 19
65. Effect of non-compliance with Rules 20
66. Deleted by L.N. 138/2025, r. 19 20
67. Revocation of L.N. 6 of 2020 and saving provision 20
68. Review of Rules 20
FIRST SCHEDULE 20
SECOND SCHEDULE [r. 59] 31
THIRD SCHEDULE [r. 60(2)] 33

SUPREME COURT ACT

THE SUPREME COURT RULES
LEGAL NOTICE 101 OF 2020

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1. Citation

These Rules may be cited as the Supreme Court Rules.

2. Interpretation

In these Rules, unless the context otherwise requires—

"Act" means the Supreme Court Act (Cap. 9B);

"advocate" means a person who has the right of audience before the Court under rule 17B;

"Appeal" includes an intended appeal from the Court of Appeal or any other court or tribunal exercising original jurisdiction;

"bench" means a judge or any number of judges as may be constituted by the President of the Court in connection with any proceeding;

"Court" has the meaning assigned to it under section 2 of the Act;

"duty judge" means a judge of the Court assigned to conduct preliminary procedures during their time on duty;

"electronic media" means any type of device that stores and allows distribution or use of electronic information;

"guardian in the matter" means a person appointed as such, to defend a minor, or a person with a disability, in a matter;

"interested party" means a person who has an identifiable stake or legal interest or duty in the proceedings, who may be prejudiced if not joined, but is not an original party to the proceedings;

"intervener" means a person who is not a party to a reference but is admitted by the Court, on the Court's own motion or on the proposal of a party, to participate in the proceedings of the Court on the ground that the person has a demonstrable personal interest in the subject matter of the reference and whose rights or interests may be affected by the outcome of the reference;

"party" includes a petitioner, respondent, interested party or an applicant;

"Petition" has the meaning assigned to it under the Act;

"preliminary procedures" means presentation made before a single judge, a two-judge bench, or the Registrar, on a matter preparatory in nature;

"President" means the President of the Supreme Court;

"proceedings" means presentation made before the Court under Article 163(2) of the Constitution, for final determination on a matter;

"reference" means an application to the Court for an Advisory Opinion;

"Registrar" has the meaning assigned to it under section 2 of the Act; and

"Registry" has the meaning assigned to it under section 2 of the Act.

(L.N. 138/2025, r. 2)

3. Scope and objectives

(1) These Rules apply to proceedings under the Court's jurisdiction and includes petitions, references and applications.

(2) The overriding objective of these Rules is to ensure that the Court is accessible, fair and efficient.

(3) The Court may use appropriate technology in its proceedings and operations.

(4) The Court shall interpret and apply these Rules without undue regard to technicalities and procedure.

(5) Nothing in these Rules shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders or give directions as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

Part II – ADMINISTRATION OF THE COURT

4. Duties of the President

The duties of the President shall include—

(a) coordination of the activities of the Court;

(b) constitution of a bench to hear and determine any matter filed before the Court;

(c) determination of the sittings of the Court and the matters to be disposed of at such sittings; and

(d) determination of the period of vacation of the Court.

5. Duty Judge

The President shall appoint a duty judge who shall—

(a) hear and determine applications for certification of urgent matters; and

(b) any other matter as may be provided for under the Act.

6. Role of the Registrar

(1) The role of the Registrar is—

(a) to schedule matters filed before the Court for a scheduling conference;

(b) to decline pleadings that are not in accordance with the Constitution, the Act, these Rules, or the Court's practice directions for filings;

(c) to impose sanctions or order costs against a party who fails to comply with directions of the Court;

(d) to fix matters for hearing in consultation with the President; and

(e) to give notice of any directions in any matter approved by the Court.

(2) Any party aggrieved by a decision of the Registrar made under this rule may apply for a review to a single judge.

(3) A determination by the single judge on the decision of the Registrar shall be final.

7. Sittings of the court

(1) The Court shall have three sittings in a year.

(2) The sittings of the Court referred to under subrule (1) shall be as follows—

(a) from the 14th January to the second Wednesday before Good Friday;

(b) from the first Wednesday after Easter Week to the 31st July; and

(c) from the 16th September to the 20th December.

8. Language of the Court

(1) The language of the Court is English.

(2) A party who intends to address the Court in any language other than the language of the Court shall give the Registrar a seven-day notice before the date of the hearing.

9. Sealing of Court documents

The Registrar shall sign and seal with the seal of the Court any summons, warrant, order, notice or other formal document issued by the Court.

10. Registry

(1) The Registry shall be located at Nairobi.

(2) The President may from time to time establish sub-registries of the Court.

(3) The working hours of the Registry are from 8.30 a.m. to 5.00 p.m.

11. Maintenance of the register

(1) The Registrar shall maintain a register of all documents lodged in the registry.

(2) A register shall contain particulars of documents including—

(a) the sequencing of the application;

(b) (in the case of an appeal), the file number of the proceedings in the lower court;

(c) the names of the parties; and

(d) the date when any action is required to be taken.

Part III – CASE MANAGEMENT

12. Filing of documents

(1) Pleadings and any other document filed in the Court shall be in both printed and electronic form.

(2) A party filing any document shall ensure consistency in the printed and the electronic formats.

(3) In case of any inconsistency between the hard copy and soft copy, the hard copy shall prevail.

(3A) Pleadings and other documents shall be filed by submitting—

(a) an electronic copy thereof through such medium as may be prescribed by the Court;

(b) a print copy in the registry within forty-eight hours from the time the electronic copy under paragraph (a) has been submitted.

(4) Where a document is lodged in a sub-registry, the deputy registrar receiving the same shall transmit it to the Registry.

(L.N. 138/2025, r. 3)

13. Form of documents

(1) A document prepared for use in Court shall conform to practice directions issued by the President.

(2) The pages of every document in an application or appeal shall—

(a) be numbered consecutively; and

(b) have every tenth line of each page indicated on the margin of the right side of the sheet.

(3) The documents lodged to institute an appeal shall be bound in book form, in volumes secured under cover of durable paper, with proper title appearing on the cover.

(4) The Court may limit the number of pages of any set of documents to be filed.

(5) Despite this rule, the Court may, where necessary, vary the requirements relating to filing of documents.

14. Hours of filing documents

(1) Parties shall file or present documents in the registry during working hours.

(2) Despite subrule (1), the President may specify other times when parties may file or present documents in the registry.

15. Computation and extension of time

(1) The computation of time for any action under these Rules shall be in accordance with—

(a) any timeline provided for under the Constitution;

(b) section 57 of the Interpretations and General Provisions Act (Cap. 2);

(c) any directions of the Court.

(2) The Court may extend the time limited by these Rules or by any decision of the Court.

16. Service and transmission of documents

(1) Where a document is required to be served upon a person under these Rules, service may be effected—

(a) personally by hand;

(b) through a licensed courier service-provider approved by the Court;

(c) by electronic means in accordance with the practice directions;

(d) by registered post;

(e) on a person entitled to appear on that person's behalf; or

(f) in such other manner as the Registrar may direct.

(2) The attestation of service shall be by way of an affidavit of service, which shall specify the details of the person served, and the place, date, time and mode of service.

(3) Despite subrule (2), the Court may admit oral evidence of service.

17. Further pleadings

(1) A party may only file further pleadings or affidavits with the leave of the Court, and with the consent of the other party.

(2) An application for leave under this rule may be made orally.

(3) Any pleadings, affidavits or other documents filed under this rule shall be served in accordance with these Rules.

17A. Amendment of pleadings

(1) A party may, without unreasonable delay and before a matter is listed for hearing, seek leave from the Court to amend the party's pleadings.

(2) The Court may allow an application under sub-rule (1) if—

(a) the amendment is required for the effective and proper adjudication of the matter;

(b) the amendment does not result in an injustice to the other party; and

(c) the party seeking to amend pleadings does not, through the intended amendment, withdraw any clear admission which the party has made which thereby confers or conferred a right on the other party.

(3) An application under sub-rule (1) shall be dated with the date of the amendment or order allowing the amendment, with deletions struck through in red ink, additions underlined in red, and subsequent amendments in different colours.

(L.N. 138/2025, r. 4)

17B. Right of audience

(1) Each advocate who is, for the time being, entitled to practice before the High Court shall have the right of audience before the Court.

(2) An advocate who has been struck off the Roll of Advocates or who has been suspended from practice and the suspension has not been lifted shall not have a right of audience before the Court.

(L.N. 138/2025, r. 4)

18. Representation in Court

(1) A party may in any proceedings—

(a) appear in person;

(b) be represented by an advocate; or

(c) with the leave of the Court, be assisted by any other person chosen by the party.

(2) An association, a corporate body or group of persons may be represented in a proceeding by an advocate, a director, manager or secretary appointed in writing, in accordance with a duly-made resolution, which shall be filed in Court.

(3) Where a child or a person with disability is involved, the Court may appoint a guardian in the matter, or a next friend, for the purpose of lodging an appeal or a petition, and the Court may, at any time and for sufficient reason, remove or substitute the appointed guardian or next friend.

(4) A party may remove or substitute a representative at any stage of the proceedings.

(5) A party seeking to remove, substitute, nominate or otherwise change a representative, shall lodge with the Registrar a notice of change, and serve the notice upon other parties to the proceedings.

(6) An advocate may at any stage in the proceedings apply to the Court to cease acting for a party.

(7) An advocate who applies to cease acting, shall serve the application upon the other party or parties involved.

19. Participation of friends of the Court

(1) The Court may on its own motion, or at the request of any party, permit a person with particular expertise to appear in any matter as a friend of the Court.

(2) The Court shall before admitting a person as a friend of the court, consider—

(a) proven expertise of the person;

(b) independence and impartiality of the person; or

(c) the public interest.

(3) Any fees or expenses incurred by a person appointed by the Court as a friend of the court on its own motion, shall be paid out of the Judiciary Fund, in accordance with a scale determined by the President.

(4) An application to be admitted as an *amicus* or a friend of the Court shall be done within 7 days upon filing of a response in any proceedings before the Court.

20. Assignment of advocate by court

(1) The President may, in the interest of justice, assign an advocate to represent a party.

(2) The fees and expenses of an advocate assigned, by virtue of subrule (1), may be paid out of the Judiciary Fund, on a scale determined by the President.

21. Test case

The Court may, upon application by any party or on its own motion, where satisfied that the issues involved in any two or more proceedings are similar, order that the proceedings be—

(a) consolidated, on such terms as the Court may determine; or

(b) determined as a test case, and there be a stay in all steps in the other matters until the test suit is determined, or shall have failed to be determined or to be a real trial of the issues.

22. Scheduling conference

(1) A party shall, within seven days after the close of pleadings, fill in and submit to the Registrar a scheduling questionnaire set out in Form A of the First Schedule.

(2) The Registrar shall, within three days of receiving the filled-in questionnaire, convene a scheduling conference to—

(a) ascertain the contested and the agreed issues;

(b) resolve the question whether the parties can reach a settlement out of Court;

(c) confirm the form of evidence to be adduced by the parties, and the number of witnesses parties will call;

(d) receive proposals and give directions on the—

(i) proposed time-frame for oral submissions; and

(ii) filing of written submissions, lists and bundles of authorities, by parties;

(e) confirm whether the parties' pleadings conform with these Rules and with the practice directions; and

(f) (where the question of the jurisdiction of the Court is raised by a party), refer the matter to the President for determination.

(2A) The Registrar shall give pre-trial directions in accordance with these Rules and the Practice Directions of the Court and confirm that the parties have complied with the pre-trial directions before the appeal is listed for hearing:

Provided that an appeal may be listed for hearing notwithstanding that a party has not complied with the pre-trial directions of the Registrar.

(3) The Presiding Judge shall, within seven days after the Registrar certifies that the parties have complied with the directions made at the scheduling conference, convene a pre-trial conference, to determine preliminary matters including—

(a) whether to allow any friend of the Court, or interested party in the proceedings; and

(b) any other matter requiring determination such as may have been raised at the scheduling conference.

(L.N. 138/2025, r. 5)

23. List and bundle of authorities

(1) A party shall file and serve any list of authorities in respect of which reliance is sought before scheduling conference before the Registrar.

(2) The list of authorities shall contain summarized analysis of each of the listed authorities, specifying the rule of law bearing upon the decision, its relevance, and its applicability to the matter before Court.

(3) A party may file written submissions in addition to, or in place of, oral submissions.

(4) A judgment and ruling of the Court shall not be annexed as part of the bundle of authorities.

24. Interested parties

(1) A person may, within seven days of filing a response in any proceedings, apply for leave to be joined as an interested party.

(2) An application under subrule (1) shall include—

(a) a description of the interested party;

(b) a depiction of such prejudice as the interested party would suffer if the intervention was denied; and

(c) the grounds or submissions to be advanced by the interested party, their relevance to the proceedings, and their departures from the standpoint of the parties.

(3) An application under this rule shall be determined on the basis of written submissions.

Part IV – CONDUCT OF PROCEEDINGS

25. Hearing in Court

(1) The Registrar shall, unless the Court certifies the matter as urgent, give parties to the proceedings a notice of not less than fourteen days, ahead of hearing date.

(2) Proceedings maybe conducted in open court or in chambers or virtually, as the Court may direct.

(3) *Deleted by L.N. 138/2025, r. 6(b)*;

(4) The Court may prescribe the time allowed for making oral presentations, address by the parties, their advocates or other recognized representatives.

(L.N. 138/2025, r. 6)

26. Admission of additional evidence

(1) The Court may call or admit additional evidence in any proceedings where the Court considers it necessary and appropriate in the circumstances.

(2) A party seeking to adduce additional evidence shall make a formal application to the Court.

(2A) Where the Court admits additional evidence, it shall consider whether the additional evidence—

(a) is directly relevant to the matter before the Court;

(b) is capable of influencing or impacting the decision of the Court;

(c) could not have been obtained with reasonable diligence for use at the trial;

(d) was not within the knowledge of the party seeking to have the additional evidence admitted;

(e) removes any vagueness or doubt over the matter before the Court;

(f) is credible and has merit;

(g) would not make it difficult or impossible for the other party to respond effectively; or

(h) discloses a case of wilful deception to the Court.

(3) In any appeal from a decision of the Court of Appeal, or from a court or tribunal exercising original jurisdiction, the Court may—

(a) call for or receive any record on any matter connected with the proceedings;

(b) re-appraise evidence and draw any inferences of fact;

(c) take additional evidence; or

(d) direct the trial court or the Registrar to take additional evidence.

(4) Where the Court takes additional evidence either orally or by affidavit, the Court may allow any witness to be cross-examined.

(5) Where the Court directs the trial court to take additional evidence, the trial court shall certify such evidence to the Court, with a statement of its opinion on the credibility of any witness adducing such evidence.

(6) Where evidence is taken by the Registrar, the Registrar shall give statements of opinion on the credibility of the witness.

(7) A party to an appeal is entitled to be present when additional evidence is being taken.

(L.N. 138/2025, r. 7)

27. Withdrawal of proceedings

(1) A party may, with the leave of the Court, withdraw the proceedings at any time before the delivery of judgment.

(2) The Court may make an order as to costs, following such withdrawal of proceedings.

28. Judgment

(1) The Court shall deliver a ruling, judgment or advisory opinion within ninety days from the last day of hearing.

(2) The Court may issue its decision, while reserving the reasons for such decision to a later date.

(3) Where the Court reserves the reasons for a decision, any judge of the Court may deliver the reasons on a determined date.

(4) The decisions of the Court shall be in writing and may be delivered in open court, or through electronic or physical service to the parties.

(5) The Court may review any of its decisions in any circumstance which the Court considers meritorious, exceptional, and in the public interest, either on the Court's own motion, or upon application by a party.

(6) Pursuant to section 21(4) of the Act, a party may apply for formal correction of a judgment, ruling or order, through a Form B set out in the First Schedule.

(L.N. 138/2025, r. 8)

29. Decrees and orders

(1) Except for an Advisory Opinion, a decision of the Court on any proceedings shall be in form of a decree or an order, as may be appropriate.

(2) A decree of the Court shall be as set out in Form C of the First Schedule.

(3) An Order of the Court shall be as set out in Form D of the First Schedule.

(4) Any party may, within fourteen days from the date of judgment or ruling, prepare a draft order and submit it for the approval of the other party and who shall, within seven days of receiving the draft order—

(a) approve it, with or without any changes; or

(b) reject it.

(5) Where the parties approve the draft, it shall be submitted to the Registrar who shall, if satisfied that it is properly drawn, certify the Order accordingly.

(6) Where parties do not agree on the content of the Order, any judge who sat at the hearing shall settle the terms of the Order.

30. Execution

(1) The Registrar shall certify every decision of the Court for transmission to the High Court for execution.

(2) An order or a decree of the Court may be enforced as if it were an order of the High Court.

(3) Where a decision of the Court is in respect of a matter relating to the violation of a right or fundamental freedom and Court's decision requires the supervision of the Court to redress the violation, the following provisions shall apply—

(a) the Registrar shall list the matter for special mention in accordance with a schedule to be determined by the Court;

(b) the parties shall, in accordance with the directions of the Court, file and serve compliance reports or affidavits before each scheduled special mention of the matter;

(c) the Court may summon or permit the appearance of any person necessary to facilitate effective monitoring of the implementation of the decision of the Court; and

(d) the Court may issue further orders or directions at any special mention to secure implementation of its decision.

(L.N. 138/2025, r. 9)

Part V – APPLICATIONS

31. Interlocutory applications

(1) Every interlocutory application to the Court shall be filed together with written submissions and shall be determined by way of written submissions.

(2) An interlocutory application shall not be originated before a petition of appeal or a reference is filed with the Court.

(3) An interlocutory application together with written submissions shall be served within seven days of filing.

(4) A response to the interlocutory application together with written submissions shall be filed and served within seven days.

(5) The applicant, upon service of the response, shall file a rejoinder which may include supplementary submissions within seven days.

(6) An interlocutory application shall be by way of a Notice of Motion.

32. Urgent applications

(1) A party seeking to have an application heard on a priority basis shall file the application—

(a) accompanied by a certificate of urgency; and

(b) supported by an affidavit attesting to the urgency.

(2) An application shall be placed before the duty judge who may grant or decline to certify the matter as urgent.

33. Application for certification

(1) An application for certification shall, in the first instance, be made in the Court of Appeal.

(2) Where the Court of Appeal has certified or has declined to certify a matter as one of general public importance, an aggrieved party may apply to the Court for review, within fourteen days.

(2A) Pursuant to Article 163(5) of the Constitution, the Court may, on its own motion or on application by a party, review a certification by the Court of Appeal that a matter is of general public

importance where Court deems it necessary to safeguard the interests of justice and may, in this regard—

(a) affirm, vary or overturn the certification by the Court of Appeal; and

(b) frame the issues of general importance.

(2B) Where the Court acts on its own motion under sub-rule (2A), it shall issue a notice to show cause to the affected parties.

(3) An application under this rule shall be by way of originating motion as set out in Form E of the First Schedule.

(4) Upon filing an application under this rule—

(a) the applicant shall serve the application within seven days;

(b) all responses shall be filed and served within fourteen days of service; and

(c) upon service of a response, the applicant shall file and serve any rejoinder within seven days.

(5) An application for certification shall—

(a) only be limited to the parties in the original cause; and

(b) be determined on the basis of written submissions.

(L.N. 138/2025, r. 10)

34. Non-attendance at hearing of application

(1) If, on the date fixed for the hearing of an application—

(a) neither party attends the hearing, the application may be dismissed; or

(b) where either the applicant or the respondent does not attend court, the Court may proceed as it deems fit.

(2) A party who, for a sufficient cause, did not attend court and is aggrieved by the decision of the Court under subrule (1), may apply to the Court to have the application heard afresh.

(3) The Court, in the case of subrule (2), shall consider a request for a fresh determination, and may set aside or vary the decision made:

Provided that the party shall demonstrate sufficient cause for non-attendance.

(4) Where, in a criminal matter, the applicant does not attend court by reason of being in custody, but is represented by an advocate, the application shall be heard in the absence of the applicant:

Provided that the Court may direct that the applicant shall be presented in court for the hearing.

(5) The provisions of this rule shall apply, with necessary modifications, to the hearing of any matter before the Court.

(L.N. 138/2025, r. 11)

35. Abatement of applications

(1) An application in a criminal appeal shall abate where the applicant is the State, on the death of the respondent, and in any other case, on the death of the applicant.

(2) An application in a civil appeal shall not abate on the death of any party, but the Court may, on the application of an interested person, cause the legal representative of the deceased to be made a party in place of the deceased.

(3) If no application is made within twelve months from the date of death, the application shall abate.

(4) A legal representative of a deceased party or any other interested person may apply for an order to revive an application which has abated.

(5) The Court shall, if it is proved that an applicant was prevented by sufficient cause from continuing with the application, revive the application on such terms as to costs, or otherwise, as the Court may deem fit.

Part VI – APPEALS

36. Notice of Appeal

(1) A person who intends to make an appeal to the Court shall file a notice of appeal within fourteen days from the date of judgment or ruling which is the subject of appeal:

Provided that in an appeal under Article 168(8) of the Constitution, the appeal shall be filed within ten days after the recommendation of the tribunal.

(2) The notice of appeal shall be—

(a) in Form F set out in the First Schedule;

(b) filed at the first instance with the Registrar of the court, or with the tribunal from which an appeal originates.

(3) *Deleted by L.N. 138/2025, r. 12(c).*

(4) In lodging an appeal on a matter of general public importance, it shall not be mandatory to obtain such certification before filing the notice of appeal.

(L.N. 138/2025, r. 12(a), (b) & (c))

37. Service of Notice of Appeal

(1) A petitioner shall, within seven days of lodging a notice of appeal, serve transmitted copies of the notice upon all persons directly affected by the appeal.

(2) A person upon whom a notice of appeal is served shall—

(a) within fourteen days of receiving the notice, file in the registry a notice of address for service, which shall contain that person's contact detail, including telephone numbers and email address, and shall serve the intended appellant with copies of the notice; and

(b) within a further fourteen days, shall serve a copy of the notice of address for service on every other person named in the notice of appeal.

(3) Where a party cannot serve a petition or a response to a petition, or cannot make any other service under these Rules, the party may apply in writing to the Court for an order of substituted service.

38. Institution of appeal

(1) An appeal to the Court shall be filed within—

(a) thirty days of the date of filing the notice of appeal, where the appeal is as of right; or

(b) thirty days after the grant of certification, where such certification is required.

(2) The requirement for instituting an appeal include—

(a) a petition of appeal;

(b) a record of appeal; and

(c) the prescribed fee.

39. Form of Petition of an appeal

(1) A petition of appeal shall be as set out in Form G of the First Schedule.

(2) The petition shall contain—

(a) a concise statement of the facts relied upon;

(b) a summary of the grounds for the petition;

(c) a concise presentation of arguments supporting each of the grounds of the petition;

(d) the relief sought in the petition and any directions sought pursuant to these Rules; and

(e) a schedule listing all the documents annexed to the petition.

40. Content of a record of Appeals from the Court of Appeal

(1) For the purpose of instituting an appeal from a Court of Appeal decision, the record of appeal shall entail—

(a) a ruling or order, if any, certifying the matter as of general public importance;

(b) the judgment or ruling of the Court of Appeal being appealed from;

(c) a judgment or ruling of the High Court or a court of equal status; and

(d) the relevant pleadings required to determine the appeal.

(2) A ruling under subrule (1)(b) is relevant only if it relates to the determination of a substantive matter, and shall not include a ruling on an application of less gravity.

(3) The court may, on the application of any party, direct certain documents to be excluded from the record, and an application for such exclusion may be made orally.

(4) Where a document is omitted from the record of appeal under this rule, the appellant may within fifteen days of lodging the record of appeal, without leave, include the document in a supplementary record of appeal.

(L.N. 138/2025, r. 13)

41. Content of a record of Appeal from other courts or tribunals

The record of appeal from a court or tribunal exercising original jurisdiction shall contain—

(a) an index of the documents in the record, with a numbering of the pages on which they appear;

(b) the notice of appeal;

(c) the certificate, if any, certifying the matter to be of general public importance;

(d) a statement showing the address for service of the appellant, including telephone numbers and email address;

(e) the address for service furnished by the respondent, and as regards any respondent who has not furnished an address for service, the address and proof of service upon the respondent in the notice of appeal;

(f) pleadings;

(g) the record of proceedings;

(h) the trial judge's notes at the hearing;

(i) the transcript of any shorthand notes taken at the trial;

(j) the affidavits read, and all documents of evidence at the hearing, or, if such documents are not in the English language, certified translations thereof;

(k) the judgment or ruling;

(l) the certified decree or order; and

(m) such other documents, if any, as may be necessary for the proper determination of the appeal, including any interlocutory proceedings which may be directly relevant.

42. Response to petition of appeal

(1) Unless otherwise directed by the Court, a respondent shall file grounds of objection, an affidavit, or both, within fourteen days of service of the petition.

(2) The petitioner shall file and serve a rejoinder within seven days of being served with the response.

(3) Pleadings shall close seven days after the lapse of time for the filing of a rejoinder.

42A. Summary proceedings in appeals

(1) The Court may, on its own motion, summarily dismiss a petition of appeal if, in the opinion of the court —

(a) the Court lacks jurisdiction to entertain the appeal; or

(b) it is apparent on the face of the petition that the petition is wholly defective and incompetent.

(2) The provisions of sub-rule (1) shall apply, with necessary modifications, to the hearing of any matter before the Court.

(L.N. 138/2025, r. 14)

43. Abatement of appeals

(1) An appeal in a criminal appeal shall abate where the appellant is the State, on the death of the respondent, and in any other case, on the death of the appellant.

(2) An appeal in a civil appeal shall not abate on the death of any party, but the Court may, on the application of an interested person, cause the legal representative of the deceased to be made a party in place of the deceased.

(3) If no application is made within twelve months from the date of death, the appeal shall abate.

(4) A legal representative of a deceased party or any other interested person may apply for an order to revive an appeal which has abated.

(5) The Court shall, if it is proved that an applicant was prevented by sufficient cause from continuing with the application, revive the appeal on such terms as to costs, or otherwise, as the Court may deem fit.

44. Death of respondent before service of notice

A notice of appeal shall be served, as soon as practicable, upon the legal representative, where the person upon whom it was to be served is deceased.

45. Address for service

A person upon whom a notice of appeal is served shall, within fourteen days after service of the notice of appeal, lodge in the registry and serve on the appellant and every other person named in the notice—

(a) an address for service; and

(b) a notice of address for service, as set out in Form H of the First Schedule.

46. Deleted by L.N. 138/2025, r. 15

47. Notice of cross-appeal

(1) A respondent who intends to cross-appeal shall specify the grounds of contention, and the nature of the relief that the respondent seeks from the Court.

(2) The respondent shall—

(a) provide contact details including the names, postal address, telephone number and email address of any persons intended to be served with the notice; and

(b) lodge eight copies of the memorandum of appeal in the registry within thirty days of service of the memorandum of appeal and record of appeal upon the respondent.

(2A) The cross-appeal shall follow the process of compliance together with the main appeal pursuant to rule 22.

(3) An application or notice to cross-appeal shall be as set out in Form I of the First Schedule.

(4) A cross-appellant in an appeal certified as concerning matters of general public importance shall—

(a) limit the cross-appeal to the issues identified as raising matters of general public importance; and

(b) shall not apply for certification.

(5) The respondent may exercise the option of relying on the record of appeal filed by the petitioner, in which case the cross-appeal shall not be deemed incomplete by the mere failure by the respondent to file a record of appeal.

(L.N. 138/2025, r. 16)

48. Notice of grounds for affirming decision and service

(1) A respondent who contends on an appeal that a decision of a court or tribunal should be affirmed on grounds other than, or additional to those relied upon by the court, shall give notice in the terms set out in Form J of the First Schedule, specifying the grounds of the contention.

(2) A respondent intending to contend at the hearing of the appeal that part of the decision of the court should be varied or reversed, and another part be affirmed on grounds other than, or additional to those relied upon by that court, may include both such contentions in a notice of cross-appeal, and shall not be required to give further notice.

(3) Subrules (1) and (2) shall apply, with necessary modifications, to an appellant who desires to contend in opposition to a cross-appeal, that the decision of a court or tribunal should be affirmed on grounds other than, or additional to those relied on by that court.

(4) A notice under this rule shall be served upon other parties within seven days of filing.

49. Withdrawal of notice of cross-appeal, or notice of grounds for affirming decision

(1) Where an appeal is withdrawn after notice of cross-appeal is given, the respondent who gave the notice may withdraw it within fourteen days of receiving the notice of withdrawal.

(2) If an appeal is not so withdrawn, the cross-appeal shall proceed to hearing, and the provisions of these Rules shall apply as if the cross-appellant were an appellant and the appellant a respondent.

(3) Where an appeal is withdrawn within fourteen days from the date when it was instituted, any respondent who has not lodged a notice of cross-appeal shall be entitled to give notice of appeal despite the expiry of time, except where the respondent gives the notice within fourteen days from the date when the appellant's notice of withdrawal was received.

Part VII – ADVISORY OPINIONS

50. Reference for an advisory opinion

(1) The national government, state organ or a county government may make a reference to the Court for an advisory opinion under Article 163(6) of the Constitution.

(2) The reference for an advisory opinion shall—

(a) be in the form set out in Form K of the First Schedule;

(b) be signed by a duly-authorised officer;

(c) specify the questions or issues for determination by the Court; and

(d) concisely and briefly state the question upon which advice is sought.

51. Participants in a reference

(1) A person filing a reference may propose that the Court may consider admitting any other person to participate in the reference as an intervener.

(2) Despite subrule (1), the Court may on its own motion identify any other person to participate in the reference.

(3) A person who has been admitted as an intervener shall file and serve written submission within fourteen days of service of the reference.

(4) The content of the written submissions of an admitted intervener shall be in accordance with the directions of the Court.

(5) Any application for joinder as interested party in a reference shall not be allowed.

(6) Where a friend of the court or an expert has been admitted in any proceedings, the Court shall give directions on whether such person shall—

(a) file written submissions; or

(b) address the Court orally.

(L.N. 138/2025, r. 17)

52. Notice of reference

Upon filing of a reference, the Registrar shall give—

(a) notice to the applicant to appear before the Court for directions on the persons to be served with notice of such reference; and

(b) notice of the reference to parties, if any, inviting them to attend the Court for directions regarding the date and mode of hearing.

53. Determining a reference

(1) The court may, after giving the parties an opportunity to be heard, reject a reference in whole or in part, if—

(a) it is incompetent within the meaning of Article 163(6) of the Constitution;

(b) the applicant does not represent those who have interest in the opinion;

(c) the matter in respect of which the reference is made can, in the opinion of the Court, be resolved by the advice of the Attorney-General, and such advice has not been sought;

(d) it is satisfied that the application is frivolous, or otherwise an abuse of the process of the Court;

(e) the applicant has failed to comply with any rule, direction or order of the Court; or

(f) the reference is materially incomplete, or lacking in clarity, and the applicant has failed to remedy the defects as directed by the Court.

(2) The Court shall, within sixty days of the close of hearing, deliver its opinion on the reference, and the Registrar shall publish the decision.

Part VIII – PETITION ON DECLARATION OF STATE OF EMERGENCY

54. Filing a petition

(1) A petition maybe filed under Article 58 of the Constitution challenging—

(a) the validity of a declaration of state of emergency;

(b) the validity of an extension of a declaration of state of emergency; and

(c) any legislation enacted, or any action taken, in consequence of a state of emergency.

(2) The petition shall set out grounds upon which the declaration is challenged, accompanied by a supporting affidavit sworn by the petitioner.

(3) The Court shall issue directions on how to proceed with the petition, including the manner of hearing.

55. Service and hearing of petition

(1) A petition filed shall be served within—

(a) three days, for a petition challenging the declaration being made;

(b) seven days, for a petition challenging grant of extension of a declaration of the state of emergency; or

(c) seven days, for any action, being taken or the publication in the *Gazette* of the legislation being challenged.

(2) The respondent shall respond to the petition within three days of service, by filing and serving a replying affidavit or response.

(3) The Court shall issue directions on how to proceed with the petition, including the manner of hearing.

Part IX – CONTEMPT OF COURT

56. Contempt in the face of the Court

(1) The Court may cause any person whose conduct before it manifests disobedience, obstruction or contempt, to be detained in custody.

(2) Within twenty-four hours of making an order under subrule (1), the Court shall—

(a) cause the person to be informed in writing of the contempt of Court with which the person is charged; and

(b) afford that person an opportunity to make a defence to the charge.

(3) Upon taking such evidence as may be necessary or as may be offered by such person, the Court shall proceed to determine the charge and make necessary orders in accordance with the Act.

57. Cognizance of contempt in other cases

(1) In a case of contempt referred to under section 28(4) of the Act, the Court may take action on its own motion or on an application made by any person.

(2) Any application for contempt filed shall specify the acts of contempt of court the person is charged with.

(3) The applicant shall serve the application for contempt on the respondent within three days of filing.

(4) Where the Court initiates contempt proceedings on its own motion, the accused shall file a response within 14 days of being notified of the intention to commence such proceedings.

(5) The Court shall determine the contempt matter within ninety days from the date of filing the response or where no response is filed, from the date the period of filing of response lapses.

58. Penalty for contempt

The Court may make such order as it may deem fit, in determining a matter of contempt, including issuing an order denying audience to the contemnor for a period not exceeding one year.

Part X – FEES AND COSTS

59. Assessment of Fees payable

(1) Subject to Article 22 of the Constitution and section 11 of the Act, there shall be payable to the Court such fees as specified in the Second Schedule to these Rules.

(2) Any costs payable by a party shall be—

(a) assessed by the Court when making its decision; or

(b) be taxed by the Registrar; or

(c) determined by consent of the parties.

60. Taxation of costs

(1) The Registrar has powers to tax costs arising out of any proceedings before the Court, between the parties and advocate-client costs.

(2) The party-to-party and advocate-client costs shall be taxed in accordance with the scale set out in the Third Schedule to these Rules.

(L.N. 138/2025, r. 18)

61. Costs improperly incurred

(1) The Court may require an advocate, or a representative of a party upon whom costs have been incurred, to show cause why they should not personally bear such costs, where it appears to the Court that the costs were incurred—

(a) improperly or without reasonable cause;

(b) on account of any undue delay in the proceedings; or

(c) due to any misconduct or default on the part of the advocate or other recognized representative.

(2) The Court may make such order as the justice of the case may require.

62. Reference on taxation

(1) A person who is dissatisfied with a decision of the Registrar in the taxing of costs may refer the matter, within seven days, to a single judge for determination.

(2) The decision of the single judge shall be final.

63. Waiver of court fees

(1) A party may apply to the Court, in any proceedings, to waive payment of court fees.

(2) The Registrar may, where satisfied that a party lacks the means to pay the required fees, permit that the matter be lodged.

(3) In considering a request for waiver of fees, the Registrar shall take into account—

(a) whether the person has the capacity to pay the costs;

(b) whether the fees were waived in the preceding court;

(c) any affidavit of means deponed by the party;

(d) the objective merit of the case; and

(e) any practice directions made by the President.

(4) No fee shall be payable in making an application for waiver of fees.

(5) Any expenses arising from waiver of fees shall be a charge on the Judiciary Fund.

Part XI – GENERAL PROVISIONS

64. Practice directions

(1) The President of the Court may issue practice directions for the better carrying out of the provisions of these Rules.

(2) Where these Rules contain no provision for exercising a right or procedure, the court may adopt any procedure that is not inconsistent with the Act, these Rules or practice directions.

65. Effect of non-compliance with Rules

(1) Where any provision in these Rules, or any relevant practice direction is not complied with, the Court may issue such directions as may be appropriate, having regard to the gravity of the non-compliance, and generally to the circumstances of the case.

(2) Any direction given under this rule may include the dismissal of the petition, reference or application.

66. Deleted by L.N. 138/2025, r. 19

67. Revocation of L.N. 6 of 2020 and saving provision

(1) The Supreme Court Rules, 2020 (L.N. 6/2020) are hereby revoked.

(2) Despite the provision of subrule (1), any legal or administrative action taken under the revoked Rules shall be deemed to have been taken under these Rules.

68. Review of Rules

The Court may review these Rules from time to time.

FIRST SCHEDULE

FORMS

FORM A (r. 22(1))

IN THE SUPREME COURT OF KENYA AT NAIROBI

APPLICATION/PETITION/REFERENCE No. ..... of 20 .....

BETWEEN

..... PETITIONER

[Name and address of the Advocate]

AND

..... RESPONDENT

[Name and address of the Advocate]

..... RESPONDENT

[Name and address of the Advocate]

SCHEDULING QUESTIONNAIRE

Question	TICK YES OR NO	REMARKS
1. Have you filed and served all the parties the documents you wish to rely on in Court?		
2. Do you have any interlocutory application (s)?		
3. Are you aware that all interlocutory applications will be determined by way of written submission?		
4. Have you made contact with the other party(ies) in these proceedings with a view to settle the case or to narrow down the issues?		
5. Written Submissions a. Have you filed written submissions?		
b. Do the written submissions comply with the Court's Practice Directions?		
c. Length of oral highlighting		
6. Is there any outstanding direction(s) to be complied with?		
7. Have you filed and served your List of Authorities?		
8. Is the Application/ Petition/Reference ready for hearing? If not state the reason in the remarks.		
9. How much time is required during hearing?		
10. Any other direction for example pending applications?		

Advocate

Name .....

Signed .....

Date .....

I hereby certify that all matters that are necessary for the preparation of this Application/Appeal/Reference for hearing have been done and that the Application/Appeal/Reference may be set down for hearing.

Deputy Registrar .....

Date .....

FORM B (r. 28(6))

In the Supreme Court

Criminal (1) Application No. ..... of ....., 20 .....

Civil

an intended appeal (1)

In the matter of .....

In the matter of .....

Criminal/Civil Appeal No. ..... of ....., 20 .....

between ..... Applicant

and ..... Respondent

(Appeal from the ..... (2) of the High Court of Kenya/Court of Appeal .....
at ..... (Mr.Justice) ..... dated ....., 20 ....., in .....

Criminal (1) Applicant (1) No. ..... of 20 .....)

Civil Appeal.

NOTICE OF MOTION

TAKE NOTICE that on ..... the ..... day of ....., 20 ....., at ..... o'clock in the morning (1) afternoon as soon thereafter as he can be heard, Mr. ....., Advocate for the above-named applicant, will move the Court (1) a judge of the Court that ..... on the grounds that .....

And for an order that the costs of and incidental to this application abide the result of the said appeal (2). .....

The application will be supported by the affidavit of .....

sworn on the ..... day of ....., 20 .....

The address for service of the applicant is .....

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

Signed ..... Applicant

Advocate for the applicant

Lodged in the Registry on the ..... day of ....., 20 .....

.....

Registrar

(1) Delete inappropriate words.

(2) Insert conviction, sentence, judgement, decree, order or as the case may be.

(3) Amend as necessary.

FORM C (r. 29(2))

(Heading as in the proceeding form)

DECREE

CLAIM FOR—

(a) .....

(b) .....

(c) .....

(d) .....

THIS PETITION COMING UP FOR HEARING ON THE .....

DAY OF ..... and for orders and upon hearing counsel for the .....

and counsel for .....

IT IS HEREBY ORDERED THAT—

1. .....

2. .....

GIVEN under my hand and seal of the Court this ..... day of .....

ISSUED on .....

.....

Registrar, Supreme Court of Kenya

FORM D (r. 29(3))

(Heading as in the proceeding form)

ORDER

Before ..... in Chambers/in Court

Upon hearing .....

and upon reading the affidavit of .....

filed herein on the .....

IT IS ORDERED that ..... and that costs of this application be ..... dated this ..... day of .....

ISSUED on .....

.....

Registrar, Supreme Court of Kenya

FORM E (r. 33(3))

Motion No. ..... of ....., 20 .....

Between

..... Applicant

And

..... Respondent

ORIGINATING MOTION

Let ..... of ..... within ..... days after service of this motion on him/her which is issued on the application of ..... who claims to (state the nature of the claim) ..... for the determination of the following questions(state questions).

Dated the .....day of ....., 20 .....

This motion was taken out by ..... of ....., advocate

For the above-named .....

Appearance may be effected personally or by advocate.

Note. – if the respondent does not enter appearance within the time above-mentioned such order may be made and proceedings taken as the Court may think just a expedient.

FORM F (r. 36 (2)(a))

(Heading as in proceeding appealed form)

NOTICE OF APPEAL

TAKE NOTICE that ..... being dissatisfied with the decision of ..... (Court or Tribunal) given at ..... on the ..... day ..... 20 .....

Intends to appeal to the Supreme Court against the whole of the said decision or such part of the said decision as decided that .....

The address for service of the appellant is .....

It is intended to serve copies of this notice on .....

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

The Registrar of the Supreme Court

Lodged in the ..... (Court or Tribunal) at ..... this ..... day of ....., 20 .....

.....

Registrar

_____

FORM G (r. 39(1))

In the Supreme Court of Kenya

Petition No. ..... of 20 .....

Between

..... Petitioner

and

..... Respondent

Appeal from judgment or ruling of..... (Court of Tribunal) ..... at ..... dated the ..... day of ....., 20 .....

In Case NO. ..... OF ....., 20 .....

PETITION

1. The humble petition of AB is as follows ..... (set out, in consecutive paragraphs the specific issues contended by (each of the) petitioner(s) referring where necessary to the section of the Constitution or any Act of Parliament or decided cases relied upon.]

2. (briefly set out the point of law raised).

3. (briefly set out the facts necessary to enable the Court to properly decide the point of law raised).

4. (set out in summary the grounds for the petition).

5. (set out succinctly presentation of the arguments supporting each of the grounds of the petition).

6. The question or issue for the determination by the Court is ..... (state the question).

7. The relief sought by the petitioner is .....

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

Signed .....

Petitioner .....

..... Advocate for the petitioner

To: The Supreme Court of Kenya

Copies to be served on

.....

.....

Lodged in the Registry at ..... on the ..... day of .....

.....

Registrar

FORM H (r. 45)

NOTICE OF ADDRESS FOR SERVICE

TAKE NOTICE that the address for service of a respondent served with notice of appeal is .....

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

Signed .....

Respondent .....

..... Advocate for the Respondent

To:

The Supreme Court of Kenya

Copies to be served on .....

.....

Lodged in the Registry/Sub-registry at ..... on the ..... day of .....

.....

Registrar

FORM I (r. 47(3))

NOTICE OF CROSS-APPEAL

TAKE NOTICE that on the hearing of this appeal the above-named respondent will contend that the above-mentioned decision ought to be varied or reversed to the extent and in the manner and on the grounds hereinafter set out, namely –

1. .....

2. .....

It is proposed to ask the Court for an order that .....

It is intended to serve copies of this notice on .....

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

Signed .....

Respondent .....

..... Advocate for the petitioner

To:

The Supreme Court of Kenya

Copies to be served on .....

.....

Lodged in the Registry/Sub-registry at ..... on the ..... day of .....

.....

Registrar

FORM J (r. 48(1))

NOTICE OF GROUNDS FOR AFFIRMING THE DECISION

TAKE NOTICE that on the hearing of this appeal, ...the above-named respondent will contend that the above-mentioned decision ought to be affirmed upon grounds other than those relied upon by the Court of Appeal, namely—

1. .....

2. .....

It is intended to serve copies of this notice on

.....

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

Signed .....

Respondent .....

..... Advocate for the Respondent

To:

The Supreme Court of Kenya

Copies to be served on .....

.....

Lodged in the Registry/Sub-registry at ..... on the ..... day of .....

.....

Registrar

FORM K (r. 50(2))

In the Supreme Court of Kenya

Reference No. ..... of 20 .....

In the matter of an application by (National Government, State Organ or County Government) for Advisory Opinion under Article 163 (6) of the Constitution

Between

..... Applicant

Whereas

Whereas

Whereas

The Advisory Opinion of the Court is sought on the following issues;

1. .....

2. .....

3. .....

4. .....

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

Signed .....

To:

The Supreme Court of Kenya

Copies to be served on .....

lodged in the Registry/Sub-registry at ..... on the ..... day of .....

.....

Registrar

SECOND SCHEDULE [r. 59]

FEES

Part 1 – FEES IN CONNECTION WITH APPLICATIONS

	ITEM	KSHS.
1.	Upon lodging a notice of motion	800

	ITEM	KSHS.
2.	Upon lodging a notice of motion under certificate of urgency For each subsequent day of hearing or part thereof excluding the first day	1,500
3.	Upon lodging an affidavit other than an affidavit annexed to a notice of motion	250
4.	Upon giving notice under rule 30	300
	Filing a notice of objection or address of service	150
5.	Filing annexures (per folio)	20
6.	Filing written submissions	200

Part 2 – FEES IN CONNECTION WITH PETITIONS AND REFERENCES

	ITEM	KSHS.
8.	Upon lodging a Petition	3000
9.	Upon lodging a Reference	Nil
10.	Filing a notice of objection or address of service or change of address of service	100
11.	Filing annexures to the petition	20
12.	Filing written submissions	200
13.	Lodging a notice of cross-appeal	3,000
14.	Lodging a notice of grounds for affirming a decision	200
15.	Lodging a notice withdrawing an appeal	200
16.	Filing written submissions	200
17.	Filing a notice of preliminary objection	500
18.	Filing grounds of objection	500

	ITEM	KSHS.
19.	Security for costs	6,000

Part 3 – MISCELLANEOUS

	ITEM	KSHS.
20.	For serving a document in addition to all necessary expenses of travel—(a) Where the person to be served resides or has his place of business within the city or town where the registry or sub-registry of Court is situated	500
	(b) In any other case	1500
21	For sealing an order	300
22.	For preparing certified copies of a document—(a) For each folio or part thereof	20
	(b) For each subsequent copy	10
23.	Upon applying to inspect the proceedings, or an application, or appeal that has been determined	300

Part 4 – FEES IN CONNECTION WITH THE TAXATION OF COSTS

	ITEM	KSHS.
24.	Lodging a bill of costs for taxation	750
25.	Applying for the Certificate of the determination of taxation	500
26.	Reference under rule 112	1,000

THIRD SCHEDULE [r. 60(2)]

TAXATION OF COSTS

(L.N. 138/2025, r. 20)

1. Interpretation

(1) In this Schedule, a folio means one page.

(2) *Deleted by L.N. 138/2025, r. 20(b).*

2. Lodging and service of bill of costs

(1) Where costs are to be taxed, the advocate for the party to whom the costs were awarded shall—

(a) lodge a bill with the taxing officer; and

(b) before or within seven days after lodging the bill, serve a copy on the advocate for the party liable to pay it.

(2) A bill of costs shall be lodged as soon as practicable after the making of the order for costs and not later than twenty-one days after a request in writing by the party liable, or such further time as the Registrar may allow.

(3) A bill of costs may not be lodged by an advocate who is not on the record.

3. Form of bill

(1) A bill of costs shall be instituted and filed in the proceedings and shall be prepared in five columns as follows—

(a) the first or left hand column for the dates of the items;

(b) the second column for the serial numbers of the items;

(c) the third column for the particulars of the services charged for;

(d) the fourth column for the professional or scale charges; and

(e) the fifth column for the taxing officer's deductions.

(2) A bill of costs shall be endorsed with—

(a) the name and address of the advocate lodging it;

(b) the name and address of every party to be served or their advocate;

(c) a certificate signed by the advocate lodging the bill that the number of folios in respect of any item in the bill charged for by the folio, is correct.

(3) If such certificate is found to be incorrect the item may be disallowed.

(4) A bill of costs shall be endorsed at the end with a form of certificate for signature by the taxing certifying the result of the taxation.

4. Disbursements

(1) Disbursements shall be shown separately at the foot of the bill of costs.

(2) Receipts for all disbursements shall be produced to the taxing officer at the time of taxation.

(3) No disbursement shall be allowed which has not been paid at the time of taxation.

5. Bills not to be altered after lodging

No alteration or addition to a bill of costs once lodged shall be made except by consent of the parties or by permission of the taxing officer or a judge.

6. Notice of taxation

When a bill of costs has been lodged as aforesaid, the taxing officer shall issue a notice to all parties concerned or their advocates giving the date, time and place at which the bill will be taxed.

7. Time and adjournment

The taxing officer shall have power to limit or extend the time for proceedings before him or her, and to adjourn the same from time to time and from place to place.

8. Failure to attend taxation

If any party or advocate who has been duly served with a notice of taxation fails to appear at the date and time specified in such notice, the taxing officer may proceed to tax the bill notwithstanding such absence.

9. Quantum of costs

(1) The fee to be allowed for instruction to make, support or oppose any application shall be such sum as the taxing officer shall consider reasonable but shall not be less than one thousand shillings.

(2) The fees to be allowed for instructions to appeal or to oppose an appeal shall be such sum as the taxing officer shall consider reasonable, having regard to the amount involved in the appeal, its nature, importance and difficulty, the interest of the parties, the other costs to be allowed, the general conduct of the proceedings, the fund or person to bear the costs and all other relevant circumstances.

(3) The sum allowed under sub-paragraph (2) shall include all works necessary and properly done in connection with the appeal and not otherwise chargeable, including attendances, correspondence, perusals, and consulting authorities.

(4) Other costs shall, subject to the provisions of paragraphs 10, 11 and 12, be awarded in accordance with the scale set out below or, in respect of any matter for which no provision is made in those scales, in accordance with the scales applicable in the High Court.

10. Fees for drawing documents

(1) The fee for drawing a document shall include the preparation of all copies for the use of the party drawing it and for filing and service when only one other party or one advocate for other parties has to be served.

(2) Where there are additional parties, fees may be charged for making the necessary additional copies.

11. Taxation of bills

(1) On taxation the taxing officer shall allow such costs, charges and disbursements as shall appear to have been reasonably incurred for the attainment of justice but no costs shall be allowed which appear to the taxing officer to have been incurred through overpayment, extravagance, over caution, negligence or mistake or payment of special charges or expenses to witnesses or other persons or by other unusual expenses.

(2) In taxing the costs of any civil appeal, the taxing officer shall disallow the costs of any matter improperly included in the record of appeal or in any supplementary record of appeal.

12. Over-riding discretion

If, after a bill of costs has been taxed, the taxing officer considers that, having regard to all the circumstances, the total of the bill before signing the certificate of taxation is excessive, he may make such a deduction from the total as will in his opinion render the sum reasonable.

13. Excessive claims

If more than one quarter of the profit costs claimed is disallowed on taxation the costs of drawing, filing and serving the bill and of attending taxation shall be disallowed.

14. Set-off of costs

Where a party entitled to receive costs is also liable to pay costs, the taxing officer may tax the costs, which that party is liable to pay and adjust them by way of deduction or set-off and direct payment of any balance.

15. Costs of more than one advocate

(1) Costs of more than one advocate shall not be allowed unless the Court has so directed.

(2) Where an advocate has instructed another advocate to appear at the hearing of an appeal, the fee paid to the latter, or so much thereof as the taxing officer considers reasonable, may be allowed but so that the total of such fee and the instructions fee allowed to the instructing advocate shall not be greater than it would have been if one advocate only had acted in the matter.

(3) Where the Court has directed that the costs of two advocates be allowed—

(a) where the senior advocate is not a member of the same firm as the advocate on the record, he shall be allowed the fee paid to him, including fees for attending in court, or so much thereof as the taxing officer shall consider reasonable;

(b) where the senior advocate is a member of the same firm as the advocate on the record, he shall be allowed such fee as would have been allowed in the case of an advocate not a member of that firm; and

(c) the advocate on record shall be allowed the usual instruction, hearing and other fees.

(4) The fee paid to another advocate by the advocate on the record shall be shown as a disbursement.

16. Costs where advocate changed during proceedings

If there has been a change of advocates the bill of costs of the first advocate may be annexed to that of the current advocate and its total shown as a disbursement and the bill will be taxed in the ordinary way, the current advocate being heard on it, but the taxing officer may require the first advocate to attend.

17. Two or more parties

Where the same advocate is employed for two or more parties and separate proceedings are taken by or on behalf of any two such parties, the taxing officer shall consider in the taxation of such advocate's bill of costs whether such separate proceedings were necessary and proper, and if of opinion that any part of the costs occasioned thereby has been unnecessarily or improperly incurred, the same shall be disallowed.

18. Costs where trustee defend separately

In taxing the costs as between party and party or for payment out of a trust fund of joint executors or trustees who are separately represented, the taxing officer shall, unless otherwise ordered by the Court or a Judge, allow only one set of costs for such parties, such costs to be apportioned among them as the taxing officer shall deem fit.

19. Expenses of persons attending hearing

A taxing officer shall allow the reasonable expenses of a party who appeared in person at the hearing of an application or appeal and those of a witness who gave evidence at any such hearing but shall not allow the expenses of any other person who may have attended the hearing, unless the Court has so ordered.

SCALE OF COSTS

	KSHS

1. For instructions to file a notice of appeal	1,500
2. For instructions to act for a respondent	
(a) in any petition, reference or application	1,500
(b) 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 court or tribunal appealed from the Court.	750
3. For drawing a petition, reference, originating motion or notice of motion	1,000
4. For drawing an affidavit, for each folio or part thereof, exclusive of exhibits	
5. For drawing a notice of appeal	500
6. For drawing a notice of address for service	500
7. For drawing Petition of appeal	2,000
8. For drawing a notice of cross-appeal	1,000
9. For drawing a notice of grounds for affirming a decision	1,000
10. For drawing an order, for each folio or part thereof	100
11. For drawing a bill of costs, for each folio or part thereof	100
12. For drawing any other necessary documents to be filed or used in the court, for each folio or part thereof	100
13. For making any necessary copies, for each folio or part thereof— (a) for the first copy	20
(b) for each subsequent copy	20
14. For attendance at the Registry	200
15. For attendance on the Registrar— (a) for the first 15 minutes	300
(b) for each subsequent 15 minutes	100

16. For attending on a judge in chambers— (a) for the first 30 minutes	1,000
(b) for each subsequent 30 minutes	500
17. For attending in court, where the matter was listed but not reached, for each day	750
18. For attending in court on the hearing of any petition, reference or application— (a) for the first 30 minutes	1,000
(b) for each subsequent 30 minutes	500
19. For attending in court to take judgment	1,000