



Magistrates' Department

Standard Operating Procedures





STANDARD OPERATING PROCEDURES

MAGISTRATES' DEPARTMENT



FOREWORD

The **Constitution of Zimbabwe** places an obligation on the Judiciary of Zimbabwe to expeditiously and efficiently dispense justice to all manner of people irrespective of status. The same Constitution charges the Judicial Service Commission with the responsibility of promoting and facilitating the independence and accountability of the Judiciary. Most importantly, it mandates the Judicial Service Commission to ensure the efficient, effective and transparent administration of justice in Zimbabwe. These values have been inculcated into our Vision and Mission, as aptly captured in our 2021-2025 Strategic Plan and its two predecessor Plans.

The ability of the Judicial Service to meet its constitutional and strategic obligations lies in operational readiness, responsiveness and aptitude within all levels of the Judicial Service Commission.

These standard operating procedures (SOPs) seek to train, mentor, develop, guide and assist all members of the Judicial Service working in different capacities on the methods, policies and procedures to be followed in executing functions. They are designed to reinforce professionalism by ensuring a standardised work process and uniformity in the manner work is done to achieve efficiency and effectiveness.

These SOPs are also meant to enlighten our stakeholders and members of the public on our operations so as to promote transparency and accountability within the Judicial Service.

I am exhorting each member of staff to closely look at, and internalise the areas relating to their duties as captured in the SOPs, but at the same time keeping abreast with what is generally happening in other areas and what the organisation is doing as contained in these SOPs.

I hope you find the SOPs a valuable tool as you do your day to day work.

Mr W.T. Chikwana
Secretary, Judicial Service Commission of Zimbabwe

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**STANDARD OPERATING PROCEDURES FOR
THE CLERK OF COURT- CIVIL REGISTRY:
CHIEF MAGISTRATE'S DEPARTMENT**

INTRODUCTION

By way of introduction, taking legal action is a last resort. Often, courts expect the parties to reach out of court settlement both before and during court processes. However, if the debtor, despite demand has failed or neglected to honour the debt, then the court process starts. Your effort or attempt to recover the debt is very important as it will also have a bearing on the costs of litigation for causing unnecessary action.

There are two ways of bringing a matter to court namely:

- a. Through an action
- b. Through an application.

There is a distinction between giving legal advice and interpreting the civil rules, e.g. where a litigant issues summons that are defective (the amount claimed exceeds the prescribed limit).

The Clerk of Court in a civil case plays a pivotal role as the face of justice. He/ she is the first port of call to deal with litigants and does not act like a conveyor belt. Instead, he scrutinizes either the summons or the applications being guided by the Magistrates Court (Civil) Rules and the Magistrates Court Act [Chapter 7:10].

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| Summons | <ul style="list-style-type: none"> ■ The Plaintiff(s) to bring at least four (4) copies of summons commencing action to the Clerk of Court. ■ The Clerk of Court checks if the summons commencing action are properly filled in and to check jurisdiction that is monetary, addresses and cause of action. ■ The Clerk of Court issues a case number and enters the parties in the Case Register Book and Index Register. ■ The Plaintiff pays the fees to file summons. ■ The Clerk of Court issues summons and files one copy for the record. ■ The Plaintiff takes the summons to the Messenger of Court for service to the Defendant(s). |
| Appearance to defend | <ul style="list-style-type: none"> ■ The Defendant(s) to bring at least three (3) copies. ■ The Defendant to respond within the <i>dies induciae</i> (i.e.) seven (7) days in Harare and fourteen (14) days outside Harare. ■ An appearance to defend shall be accepted even |



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| <p>Request for Further Particulars</p> <p>Exception</p> <p>Notice to Plead</p> <p>Default Judgment</p> | <p>after the expiry of either seven (7) or fourteen (14) days whichever the case may be. This is as long as no request for default judgment has been filed in the record.</p> <ul style="list-style-type: none"> ■ The Defendant pays the relevant fee for filing, then the Clerk of Court issues and retains one copy for the record. ■ The Clerk of Court enters the process in the Appearance to Defend Register. <p>■ The Defendant may file at least three (3) copies of a request for further particulars within seven (7) days from the date of filing of appearance to defend which the Plaintiff responds to.</p> <ul style="list-style-type: none"> ■ A Defendant shall, within seven (7) days after an entry of appearance to defend, deliver particulars of any exception to the summons. ■ The Defendant shall deliver at least four (4) copies and a notice of set down of such exception which the Clerk of Court issues and gives a date of return. ■ The court may either uphold the exception and dismiss the claim or dismiss the exception and the matter shall proceed. <ul style="list-style-type: none"> ■ The Plaintiff shall bring at least four (4) copies to the Clerk of Court. ■ The Plaintiff pays the relevant fee as filing fee. ■ The Clerk of Court issues the Notice to Plead, retains one (1) copy for the record and returns the remaining copies to the Plaintiff. ■ The Plaintiff shall serve the issued copies either personally through his agent or the Messenger of Court. <ul style="list-style-type: none"> ■ The Plaintiff shall file at least four (4) copies of a request for Default Judgment when the Defendant fails to file an appearance to defend within the required time or fails to file a plea. ■ The request for Default Judgment should be attached to a return of service, either payment receipt and/or supporting affidavit documents. ■ The request for Default Judgment shall be issued and the Clerk of Court retains one (1) set for filing in the record. ■ The file is booked in the Default Judgment Register and taken before a Magistrate who shall either grant the Default Judgment or dismiss it. |
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| <p>Rescission of Default judgement</p> | <ul style="list-style-type: none"> ■ The Clerk of Court collects the record from the Magistrate's office and records the outcome in the Default Judgment Register and files the record. ■ A Defendant, upon realising that a Default Judgment has been obtained against him, may apply for Rescission of the Default Judgment. ■ The Applicant (who was the Defendant) shall file an application within 30 days from the date he becomes aware of the Default Judgment. ■ The Applicant needs to pay for security of costs which are costs incurred by the Plaintiff (then Respondent) before he files for the Rescission of Default Judgment. ■ The application has a return date which is allocated by the Clerk of Court. ■ The Respondent can file opposing papers which the Applicant is entitled to respond to through an Answering Affidavit which is filed with the Clerk of Court. ■ The Respondent can choose to consent to the application. ■ This application usually accompanies the Rescission of Default Judgment. |
| <p>Stay of execution</p> | <ul style="list-style-type: none"> ■ The Applicant brings at least four (4) copies of the application. ■ This application is <i>ex parte</i>, meaning it shall be dealt with in the absence of the other party and has an interim order or a rule <i>nisi</i>. ■ The Clerk of Court stamps the application and takes the record, the application and the Applicant before a Magistrate who will then deal with the matter on the same day it is filed. ■ If granted, the Clerk of Court then stamps the provisional order after the Magistrate signs, and retains one copy of the application and returns the other copies to the Applicant. ■ The Applicant takes the copies to the Messenger of Court. ■ If the application is dismissed, the Clerk of Court returns the copies filed by the Applicant and files the record. |
| <p>Summary Judgment</p> | <ul style="list-style-type: none"> ■ This application is filed by the Plaintiff within seven (7) days after the Defendant has filed an appearance to defend. ■ This application shall be filed when the Defendant has filed an appearance to defend without any |



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| <p>Defendant's Plea</p> <p>Replication or Reply</p> <p>Discovery</p> | <p>defence to the claim but only to delay completion of the case.</p> <ul style="list-style-type: none"> ■ The Applicant shall submit at least four (4) copies and pay to file the application. ■ The Clerk of Court issues the application and allocates a return date. ■ The Respondent can file opposing papers which the Applicant is entitled to respond to through answering affidavit(s) which are filed with the Clerk of Court. ■ If the application is granted, the case is complete and only awaits execution. <ul style="list-style-type: none"> ■ The Defendant shall submit at least four (4) copies. ■ The Clerk of Court shall issue the process and remains with one (1) copy which is filed in the record and return the other copies to the Defendant. ■ The Defendant does not pay to file this process. ■ The Defendant shall file this process with the Clerk of Court within seven (7) days of the filing of the appearance to defend or after he/she has received a notice to plead. <ul style="list-style-type: none"> ■ Upon receiving the Defendant's plea, the Plaintiff replies and brings at least four (4) copies to the Clerk of Court. ■ The Clerk of Court issues the process and files one (1) copy and returns the other copies to the Plaintiff who then serves the Defendant. ■ The pleadings shall be deemed to be closed. <ul style="list-style-type: none"> ■ Any party can give notice to the other party to discover documents, that is, to bring any evidence for inspection which can be documents or any evidence which shall be used on this case. ■ The filing party is to bring at least four (4) copies to the Clerk of Court for filing and the clerk returns the remaining copies to the filing party. |
| <p>Pre-trial Conference Minute (PTC)</p> | <ul style="list-style-type: none"> ■ After the close of pleadings, the party that wishes to have the action brought to trial shall request the other party to attend a pre-trial conference at a mutually convenient time and place. ■ Parties can hold a PTC on their own and if they settle, any party can have the agreement registered with the court by bringing copies for issuing. ■ If they fail to settle, they file PTC minutes with the |



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| <p>Trial</p> | <p>Clerk of Court who then allocates a date and time for the PTC.</p> <ul style="list-style-type: none"> ■ A PTC can then be held before a Magistrate. ■ The matter can be settled at a PTC or PTC minutes can be adopted for trial. <ul style="list-style-type: none"> ■ Either party can bring at least four (4) copies of notice of set-down for trial to the Clerk of Court. ■ The party shall pay for the fees for notice of set-down. ■ The Clerk of Court allocates a return date and issues the notices. ■ After issuing the notices, the Clerk of Court enters the details in the Trial Register. ■ On the court date or a day before, the Clerk of Court brings the record to the Magistrate who signs for the record and returns the record after trial through the Clerk of Court who should sign for the record upon collection. ■ If the matter is postponed, the Clerk of Court enters the date in the Trial Register and files the record in the date slots. ■ The Clerk of Court takes the record again to the Magistrate and have him or her sign for it. |
| <p>Absolution from the instance</p> | <ul style="list-style-type: none"> ■ After the Plaintiff has closed his or her case, the Defendant can apply for absolution from the instance. ■ If the application is granted, the Clerk of Court endorses the outcome in the Court Register. ■ After submissions by both parties, and the Magistrate is convinced that the parties have not proved any case before the court, he or she may make an order for absolution from the instance. ■ If the application fails, then the matter proceeds to the defendant`s case. ■ Any party can bring a typed order to the Clerk of Court. |
| <p>Execution order</p> | <ul style="list-style-type: none"> ■ Any party pays for the order. ■ The Clerk of Court takes the typed order, files it and takes it to the trial Magistrate who will then sign and stamp it. ■ The Clerk of Court collects the record and issues the process and retains one copy in the record and gives the other copies to the filing party. |



**Writ of Execution
against property or
ejectment**

**Applications
Ordinary**

- Where necessary, the successful party brings at least four (4) copies of the writ
- The successful party pays the relevant fee as filing fees.
- The Clerk of Court pulls or retrieves the record, files the process and enters it in the Writ Register and takes it to the Magistrate who stamps and returns the record.
- The Clerk of Court then issues the process and retains one (1) copy for the record and dispatches other processes to the successful party.
- The successful party will take the copies of the writ to the Messenger of Court for execution.
- Usually, the order and the writ are filed at once.

There are two types of applications: ex parte and ordinary.

- The Applicant brings at least four (4) copies of the application.
- The Clerk of Court checks if it is properly done and whether the affidavit is commissioned.
- The Clerk of Court allocates a case number and enters it in the Case Register Book.
- The Applicant pays the relevant fee for the application.
- The Clerk of Court issues the process and allocates a return date and retains one (1) set and gives the remaining copies to the Applicant who then goes to the Messenger of Court for service.
- The Clerk of Court opens the record, enters the parties' names and return date on the cover and files the record on the dates slot and waits for return of service.
- A day before the return date, the Clerk of Court takes the record to the trial Magistrate using the Applications and Dates Register.
- The Magistrate signs for the record.
- After the matter has been heard, the record is returned to the Clerk of Court. The Clerk of Court collects the records from the Magistrate and signs for them.
- After that, any party can bring an order for issuance with a warrant of execution where necessary.
- The party pays for the process and leaves the process with the Clerk of Court.
- The Clerk of Court enters the details in the Order and Writs Register and takes the record to the trial Magistrate for signing.



Ex-parte

- After signing of the record, the Clerk of Court collects it, issues the processes and retains one (1) copy for the file and gives the remaining process to the successful party for execution.
- The Applicant brings a set of at least four (4) copies of the application.
- The Clerk of Court checks the applications for jurisdiction and whether the affidavit is commissioned.
- The Clerk of Court allocates the case number and enters it in the Case Register Book.
- The Plaintiff pays for the ex-parte application at the Accounts Office.
- The Clerk of Court issues the process and opens the record.
- The Clerk of Court takes record to the Magistrate who will assess the application and issue an appropriate order on the same day.
- After assessment, the Magistrate returns the record to the Clerk of Court.
- If the application is not granted, the Clerk of Court retains one (1) copy for the record and gives the remaining copies to the Applicant and files the record.
- If the application is granted, the Clerk of Court stamps the order and allocates a return date.
- The Clerk of Court updates the position in the *Ex-parte* Register and Applications Date Register and files the record in the date slots.
- A day before the return date, the Clerk of Court takes the record and Applications Date Register to the Magistrate who will sign for it.
- After the matter is heard, the Clerk of Court collects the records from the Magistrate and the Clerk of Court should sign for them and enter the outcome in the register and files the records.
- Usually, the successful party prepares the order and the warrant of execution where necessary.
- The order and writ are paid for before filing.
- The order and writ are filed in the record and entered in the Order and Writ Register and the Clerk of Court takes both the register and record to the Magistrate who will sign for the record.
- After the Magistrate has assessed the order and writ, the Clerk of Court collects the record and issues the process.



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| | <ul style="list-style-type: none"> ■ The Clerk of Court enters the outcome in the Order and Writs Register. ■ The Clerk of Court retains one (1) copy for the record and hands over the remaining copies to the party who will then take the order and writ to the Messenger of Court for execution. ■ The Clerk of Court files the record. |
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REVIEW

| ITEM | PROCESS |
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| Review | <ul style="list-style-type: none"> ■ To be noted within eight (8) weeks from date of judgment. ■ The Appellant brings at least five (5) copies of notice of review. Applicant to pays for the record preparation costs (relevant fees per page). ■ The Clerk of Court stamps all the applications and allocates a review number and enters details in the Reviews Register and returns all the copies to the Applicant. ■ The Clerk of Court advises the Applicant to go to the High Court for a second stamp and allocation of a High Court review number. ■ The Applicant returns from High Court. ■ The Clerk of Court takes five (5) copies of the notice of review. ■ The Clerk of Court pulls the record and files the notice of review. ■ The Clerk of Court books the record in the Reviews Register for the trial Magistrate. ■ The trial Magistrate signs for the record. ■ The Clerk of Court collects the record from the trial Magistrate and books it to the transcribers for typing of all record of proceedings. ■ Preparation of record for review: <ol style="list-style-type: none"> a. Arranging record in order b. Pagination c. Photocopying seven (7) copies d. Indexing e. Binding the records ■ The Clerk of Court invites parties to inspect the review record within ten (10) working days. ■ Each party signs a certificate of inspection and gets a copy of the review record. |



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| <p>National Archives</p> | <ul style="list-style-type: none"> ■ The Clerk of Court takes the record for signing and stamping of the certificate of inspection by the trial Magistrate. ■ The Clerk of Court signs on the record and certificate of inspection. ■ The Clerk of Court takes the record to the Resident Magistrate for signing and stamping of the certificate of inspection. ■ The Clerk of Court books the original record and four (4) duplicate copies in the Reviews Register to the High Court. ■ The Clerk of Court updates the Reviews Register. ■ The Clerk of Court delivers the record of review to the High Court within seven (7) days of the review application. ■ After the hearing of the review, the record is returned to the Clerk of Court. ■ The Clerk of Court updates the Review Register and notes the outcome. ■ The record is taken to the trial Magistrate so that he or she notes the outcome. ■ The Clerk of Court files the record. <ul style="list-style-type: none"> ■ Records are kept for three (3) current years before they are sent to the National Archives. ■ Each deposit consists of 50 archive boxes. ■ A transmittal list indicating the year, station, department, range of records in the box is completed by a Clerk of Court. ■ At the end of the transmittal list, a list of missing records in each box is shown indicating the range of records in the box. ■ The transmittal list is prepared in triplicate. ■ One (1) copy is filed for record. ■ Two (2) copies are submitted to the National Archives. ■ A copy indicating the location and box number is received by a Clerk of Court from the National Archives. <ul style="list-style-type: none"> ■ To retrieve a record from the National Archives, the Clerk of Court writes out a request quoting the location, box number and CRB number. |
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REGISTERS

The Clerk of Court must maintain the following registers:

- Case Number Register/ Case Register Book
- Summons Movement Register
- Appearance to Defend Register
- Record Movement Register
- Taxation Register
- PTC Diary Register
- Trial Diary Register
- Court Roll Register
- Maintenance Register
- Small Claims Court Register
- Children's Court Register

CLERK OF COURT AS A MAINTENANCE OFFICER

| ITEM | PROCESS |
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| <p>Applications</p> | <ul style="list-style-type: none"> ■ The Clerk of Court advises applicants to bring their bank account numbers, photocopies of their identity cards, as well as photocopies of the birth certificates, baby cards or other birth records of their dependants. ■ The Clerk of Court issues out to the Applicant: <ol style="list-style-type: none"> a. Summons x 4 (Annexure M1) b. Complaint on oath x 3 (Annexure M2) c. List of expenses x 3 (Annexure M3) ■ The Clerk of Court assists the applicants to fill in the forms. ■ The Clerk of Court allocates a case number and enters the parties' names in the Maintenance Court Register, stamps and signs the forms. |
| <p>Opening Records (continuous process)</p> | <ul style="list-style-type: none"> ■ The Clerk of Court enters the parties' names, case number and return date on the record cover. ■ Return dates are at least seven (7) working days for those residing in Harare and at least fourteen (14) working days for those resident outside Harare. ■ The Clerk of Court files one (1) copy of each form in the record. ■ The Clerk of Court returns the rest of the forms to the applicant and advises them to serve the respondents through the Zimbabwe Republic Police (ZRP) or the |



Variations

- Messenger of Court and bring a return of service a day before the court date or on the return date.
- The Clerk of Court indexes Applicant's names in the Index Book in alphabetical order.
 - The Clerk of Court prepares the Court Roll and the slot records appropriately.
 - The Clerk of Court books records in the Movement Register and takes them to the Magistrate who signs for the records a day before the return date.
 - The Clerk of Court collects the records from the Magistrate after the court hearing and the Clerk of Court signs for the records to acknowledge receipt.
 - The Clerk of Court follows up on any missing records with the Magistrate.
 - The Clerk of Court updates the Maintenance Register and files the records appropriately.
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- There are two types of variations, namely:
 - a. Upwards
 - b. Downwards
 - These applications are done where there are changed circumstances.
 - The Clerk of Court advises applicants on the need to have changed circumstances.
 - The Clerk of Court issues out variation forms which are:
 - a. 4 x PJI forms (**Annexure M4**)
 - b. 3 x M6 forms (**Annexure M5**)
 - The Clerk of Court assists applicants to fill in the forms.
 - The Clerk of Court pulls the required record.
 - The Clerk of Court allocates a court date which is seven (7) working days within Harare and fourteen (14) working days outside Harare.
 - The Clerk of Court issues processes (stamping, signing, writing court date) and endorses the date on the record cover.
 - The Clerk of Court files one (1) copy in the record and returns the remainder to the Applicant for service to respondent through the Zimbabwe Republic Police or the Messenger of Court.
 - The Clerk files the record on the appropriate date slot.
 - The Clerk of Court advises the applicant to bring the return of service before or on the return date.
 - The Respondent can file a notice of opposition before the return date.



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| | <ul style="list-style-type: none"> ■ The Clerk of Court prepares the Court Roll and books the records in the Maintenance Records Movement Register and takes them to the Magistrate who signs for them. ■ After the court hearing, the Clerk of Court collects the records from the Magistrate and the Clerk of Court signs for the records. ■ If there are any missing records, the Clerk of Court follows up with the Magistrate. ■ The Clerk of Court endorses the court outcome, updates his/her register and files the records appropriately. |
| <p>Discharge</p> | <ul style="list-style-type: none"> ■ The Clerk of Court advises the applicant on the need to have valid grounds for discharge. ■ The Clerk issues out discharge forms: <ul style="list-style-type: none"> a. (PJ1) four (4) copies (Annexure M4) b. (M6) three (3) copies (Annexure M5) ■ The Clerk of Court assists applicants to fill in the forms and pulls the required record. ■ The Clerk allocates the court date which is seven (7) working days within Harare and fourteen (14) working days outside Harare. ■ The Clerk of Court issues processes (stamping, signing, writing court date) and endorses the date on the record cover. The Clerk of Court files one (1) copy in the record. And returns the remainder to the applicant for the service to the respondent through the Zimbabwe Republic Police or Messenger of Court. ■ The Clerk of Court files the record on the appropriate date slot. ■ The Clerk of Court advises the Applicant to bring the return of service before or on the return date. ■ The Respondent can file a notice of opposition before the return date. ■ The Clerk of Court prepares the court roll and books the records in the Maintenance Records Movement Register and takes them to the Magistrate who signs for them. ■ After the court hearing, the Clerk of Court collects the records from the Magistrate and he/she signs for the records. ■ If there are any missing records, the Clerk of Court follows up with the Magistrate. ■ The Clerk of Court endorses the court outcome, updates his/her register and files the records appropriately. |



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| <p>Garnishee Order</p> | <ul style="list-style-type: none"> ■ The Clerk of Court ensures the Respondent is formally employed. ■ If the Respondent is in the civil service or Zimbabwe National Army (ZNA), the Applicant should provide a bank account number. ■ The Clerk of Court issues out forms namely <ul style="list-style-type: none"> a. M9 forms x (4 copies) (Annexure M6) b. Direct orders (3 copies) (Annexure M7) ■ The Clerk of Court assists in the filling in of the forms and pulls the records and checks the correctness of case number and parties. ■ The Clerk of Court issues the process and allocates a return date, seven (7) days within Harare and fourteen (14) days outside Harare. ■ The Clerk of Court advises the Applicant to serve the forms through the Zimbabwe Republic Police and to get the forms signed and stamped by the employer and the Respondent. ■ The Clerk of Court advises the Applicant to bring the return of service on or before the return date. ■ The Clerk of Court slots the record appropriately and prepares the court roll. ■ A day before the return date, the Clerk of Court books the records in the Maintenance Record Movement Register and takes them to the Magistrate who signs to acknowledge receipt of the records. ■ After the court hearing, the Clerk of Court collects the records from the Magistrate and the Clerk of Court signs to acknowledge return of the record. ■ The Clerk of Court files the record appropriately. |
| <p>Paternity Tests (D.N.A)</p> | <ul style="list-style-type: none"> ■ The Clerk of Court advises the parties of the centres that provide the service for the court namely: <ul style="list-style-type: none"> a. African Institute of Biomedical Science and Technology (AIBST) Deoxyribonucleic Acid (DNA) Centre at Wilkins Hospital; b. National Blood Services Zimbabwe (NBSZ) at Parirenyatwa Hospital; and c. Any other recognised institutions that conduct DNA tests. ■ The Clerk of Court writes a letter to the service provider chosen with the correct details of the father, mother and child(ren) as appears on the identity cards and birth certificates for booking. ■ The service provider sends a letter with the requirements. |



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| | <ul style="list-style-type: none"> ■ The Clerk of Court calls the parties and notifies them of the requirements and gives the letter to the Respondent which he will use for payment of the required relevant fee for each child. ■ When the Respondent has paid, the service provider sends a payment confirmation and a pro-forma invoice to the Clerk of Court. ■ The Clerk of Court calls the Respondent and gives him the pro-forma invoice to enable payment of the relevant fee for each child into the service provider's Bank Account. ■ The Service Provider sends an appointment date to the Clerk of Court. ■ The Clerk of Court then calls both parties to come and notifies them of the appointment date and the parties sign to acknowledge. ■ The husband takes the signed forms to the service provider. ■ After the tests, the results are taken to the Clerk of Court. ■ The Clerk of Court calls both parties to come on the same date and time. ■ When both parties have arrived, the Clerk of Court takes them and the record to the Magistrate who announces the results to them. ■ If the results are negative, the Magistrate discharges the maintenance order and advises the Respondent to claim the money that he had paid in compliance with an interim maintenance order. |
| <p>Transfer of records to other Magistrates' court</p> | <ul style="list-style-type: none"> ■ A party wishing to have the record transferred makes the request in writing. ■ The Clerk of Court pulls the record and books it in the Outgoing Register. ■ The Clerk of Court writes two (2) covering letters. ■ The Clerk of Court opens a dummy record and files a copy in the dummy. ■ The Clerk books the record in the Transferred Records Register. ■ The record is delivered through Expedited Mail Service (EMS). |
| <p>Receiving records from other Magistrates' Court</p> | <ul style="list-style-type: none"> ■ The Clerk of Court books the record in the Incoming Record Register. ■ The Clerk of Court gives a new case number and endorses it in the Maintenance Register and Index. |



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| | <ul style="list-style-type: none"> ■ The Clerk of Court writes a letter to the sending court acknowledging receipt and notifying them of the new case number. ■ The Clerk of Court files the record. |
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DOMESTIC VIOLENCE PROCESSING

| ITEM | PROCESS |
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| <p>Protection Order</p> | <ul style="list-style-type: none"> ■ The complainant explains the plight to the Clerk of Court who ascertains whether the complaint requires a protection order. ■ The Clerk of Court gives the complainant Domestic Violence Act (DVA) forms to fill in, that is a PJ1 form, affidavit, a DV3 form, and a DV6 form. (Annexures D1, 2, 3 respectively) ■ After the forms have been filled in, the Clerk of Court checks if the forms have been properly filled in. ■ The Clerk of Court allocates a case number and enters the parties in the DVA Register and DVA Index. ■ The Clerk of Court opens the record and properly writes the parties' names and case number on the record cover. ■ The Clerk of Court takes the record to the Magistrate for an interim assessment. ■ After assessment, the Clerk of Court issues the process (stamping, signing and allocating a return date). ■ The Clerk of Court retains one (1) copy for the record and gives the other copies to the complainant. ■ The complainant takes the processes to the police station for service to the other party. ■ Before the return date, the Clerk of Court takes the register and record to the Magistrate. ■ The Magistrate signs for the record. ■ After the matter is heard, the record is collected from the Magistrate by the Clerk of Court who signs for the records. ■ The Clerk of Court signs in the DVA Record Movement Register that he has received the record back. ■ The Clerk of Court enters the outcome in the DVA Register. ■ If the complaint was accepted by the court, the Clerk of Court fills in at least three (3) copies of the DV7 form. (Annexure D4) ■ The Clerk of Court takes the record with DV7 forms |



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| | <p>to the Magistrate who will then assess and signs on the DV7.</p> <ul style="list-style-type: none"> ■ The record is returned to the Clerk of Court. ■ The Clerk of Court gives a copy to the complainant for future use if the order is breached. ■ If the Respondent was in default on the return date, the complainant will take one (1) copy to the police to serve Respondent. ■ The Clerk of Court files the record. |
| Breach of Order | <ul style="list-style-type: none"> ■ The complainant takes a copy of the order (DV7) to the police who investigate and arrest the Respondent and prepare a docket for contempt of court if the order has been breached. (Annexure D5) |
| Peace Order | <ul style="list-style-type: none"> ■ The complainant explains the plight to the Clerk of Court. ■ The Clerk of Court gives a Peace Order form to the complainant. (Annexure D6) ■ The complainant fills in the forms and returns them to the Clerk of Court who allocates a case number and enters the parties' names in the Peace Order Register and Peace Order Index. ■ The complainant pays the relevant fee for the application. ■ The Clerk of Court opens the record, that is, writes the parties' names on the record cover and case number. ■ The Clerk of Court allocates a return date. ■ At least a day before the return date, the Clerk of Court takes the record and Peace Order Record Movement Register to the Magistrate who then signs for the record. ■ After the court hearing, the record is collected by the Clerk of Court from the Magistrate. ■ The Clerk of Court signs the Peace Order Record Movement Register to acknowledge receipt of the record. ■ The Clerk of Court enters the outcome in the Movement Register and Peace Orders Register. ■ The Clerk of Court takes the record to the transcribers for the typing of the court order/outcome. ■ Each party comes to the Clerk of Court to collect the order/outcome. |



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| <p>Contempt of Court or Breach</p> | <ul style="list-style-type: none"> ■ The complainant writes an affidavit explaining the breach. ■ The complainant takes the Peace Order judgment and affidavit to the police who will then prepare a docket of Contempt of Court which is a criminal offence. |
| <p>Custody/Access Guardianship Adoption</p> | <ul style="list-style-type: none"> ■ The Applicant narrates the plight and she is / he is directed to lawyers or non-governmental organisations (NGOs) who offer services. ■ The Applicant brings at least four (4) copies of the application. ■ The Clerk of Court allocates a case number in the Children's Register, book and enters the parties in the register and index. ■ The Applicant makes the payment. ■ The Clerk of Court issues the process (stamps & signs on the application and allocates a return date which is at least two (2) weeks). ■ The Clerk of Court opens the record by writing the parties' names, case numbers and return date on the record cover. ■ The Clerk of Court retains one (1) copy and gives the Applicant the other copies for service to the Respondent through the police and gets a return of service before the court date. ■ The Respondent brings at least three (3) copies of the notice of opposition to the application. ■ The Clerk of Court checks if the case number, parties' names and return date are correct. ■ The Clerk of Court stamps the notice of opposition and retains one (1) copy for the file and gives the remaining copies to the Respondent to serve one copy on the Applicant. ■ A day before the return date, the Clerk of Court takes the record and Children's Register to the Magistrate who signs for the record. ■ After court, the Clerk of Court collects the record from the Magistrate. ■ The Clerk of Court signs in the Children's Record Movement Register to acknowledge receipt of the record. ■ The Clerk of Court enters the outcome in the Children's Court Register. ■ The Clerk of Court sends the record to the transcribers for typing of the order. After typing of the order, the |



Magistrate signs and stamps it. The record is returned to the Clerk of Court.

- Where one biological parent is alive but whereabouts are unknown or known, refer the application to the High Court. Where both biological parents are still alive, the application is dealt with by the Magistrates' Court.
- The Applicant approaches the court for the order, pays for it and collects it.
- If the Respondent was in default on the return date, the Applicant serves the Respondent with the order and enforces the order after seven (7) days with the assistance of the police.
- The Clerk of Court files the record.
- The Applicant narrates the plight directed to the lawyers or NGOs who offer legal services.
- The Applicant brings at least four (4) copies of application.
- The Clerk of Court allocates a case number in Children's Court Register, enters the parties and index in the Children's Court Index book.
- The Applicant pays the relevant fee for the application.
- The Clerk of Court opens the record and allocates return date which is about a month.
- The Clerk of Court retains one (1) copy for the record and gives the other copies to the Applicant.
- The Applicant takes the application to the Government Gazette and any other local paper for advertising of such an application.
- The Applicant brings the advertisements before the return date which will be filed by the Clerk of Court in the record.
- A day before the return date, the Clerk of Court takes the record to the Magistrate through the Record Movement Register who signs for the record in the register.
- The Clerk of Court enters the judgment in the Children's Court Register.
- The Clerk of Court takes the record to the transcribers through the Record Movement Register, who types the Certificate of Guardianship.
- The Clerk of Court takes the record to the Magistrate for signing and stamping.
- The Clerk of Court sends the record to the High Court for confirmation of Certificate of Guardianship by the Judge.



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| | <ul style="list-style-type: none"> ■ The record comes back to the Clerk of Court who then updates the Children's Court Register on the outcome. ■ The Clerk of Court sends the record to the Magistrate to see the outcome and returns the record. ■ The Applicant pays for the certificate and collects the certificate. ■ The Clerk of court files the record. |
| <p>Adoption</p> | <ul style="list-style-type: none"> ■ Adoption is to be applied for in the Magistrates' Court in cases where both parents of the minor are deceased. ■ The Applicant narrates the plight or circumstances. ■ The Clerk of Court directs the Applicant to lawyers or the Justice for Children Trust. ■ The Applicant brings at least four (4) copies of the application. ■ The Clerk of Court allocates a case number and enters the details in the Children's Court Register that is, the applicant's name, gender, disability (if any) status and date case opened and indexes. ■ The Applicant pays the relevant fee for the application. ■ The Clerk of Court stamps and signs the process, and endorses the application as received. ■ The Clerk of Court opens the record and clearly endorses the case number and Applicant's name. ■ The Clerk of Court directs the Applicant to the Social Welfare Department for assessment of application. ■ The Clerk of Court writes a request for a guardian ad litem report from the Social Welfare Department. ■ The Clerk of Court files the record awaiting the guardian ad litem report. ■ The social welfare officer files the guardian ad litem report. ■ The Clerk of Court allocates any nearest possible date. ■ A day before the court date, the Clerk of Court takes the record to the Magistrate who signs to acknowledge receipt of the record. ■ After the court inquiry, the Clerk of Court collects the record from the Magistrate and signs in the Children's Court Records Movement Register that he has received the record. ■ The Clerk of Court takes the record to the transcribers who type the order. |



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| | <ul style="list-style-type: none"> ■ The Clerk of Court takes the record to the Magistrate for signing of the order. ■ The Applicant pays the relevant fee for the order. ■ The Clerk of Court issues the order to the Applicant and files the record. |
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REGISTRATION OF DECEASED ESTATES

| ITEM | PROCESS |
|---|--|
| Clerk of Court informs parties of the requirements | <ul style="list-style-type: none"> ■ The requirements are the following: <ul style="list-style-type: none"> a. Original Death Certificate plus copy. b. Marriage Certificate if any [Chapter 5: 07]. c. At least three (3) blood relatives. d. Identity Cards. e. Registration fees. Edict meetings held within five (5) working days. f. Filling of forms starts at 8am. |
| Day of Registration | <ul style="list-style-type: none"> ■ The parties approach the Clerk of Court. ■ The Clerk of Court checks if the requirements have been met. ■ The parties agree on an executor/executrix dative. ■ Issuing of registration forms that is: <ul style="list-style-type: none"> a. Inventory b. Death Notice c. Bond of Security d. Declaration forms e. Affidavit and undertaking f. Confirmation of customary marriage if required. |
| Filling in of Forms | <ul style="list-style-type: none"> ■ The Clerk of Court assists the parties to fill in the forms. ■ The Clerk of Court enters the name of the deceased person in the register and allocates a case number. ■ The Clerk of Court opens the record and writes the deceased's name and case number on the record cover. ■ Payment of relevant registration fees. ■ Filling in letters of administration and appointment of executor/ executrix dative forms. |
| Edict Meeting | <ul style="list-style-type: none"> ■ Relatives of deceased person attend the appointment of the executor/executrix dative with the forms. |



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| Endorsement | <ul style="list-style-type: none"> ■ The Additional Master confirms the name of the executor/executrix dative and endorses on the record. ■ The Additional Master makes an enquiry if there arises a dispute among the parties in connection with the executor/executrix dative. |
| Updating the Register | <ul style="list-style-type: none"> ■ Entry of appointed executor/executrix dative in the register. ■ Filling in forms for requesting a bank statement (where there is money in the deceased's bank account). ■ Filling in of a certificate of authority where it is required. ■ Consent to payment made under a policy of insurance. |
| Advertising | <ul style="list-style-type: none"> ■ The Clerk of Court issues forms for advertising of notice to creditors and debtors (30 days). |
| Proof of Advertising | <ul style="list-style-type: none"> ■ A party files proof of advertising for creditors and debtors. ■ Assists in the filing of the First and Final Administration Account and Distribution Plan Forms. ■ Issue forms for account lying for inspection and party files proof of advertising of account for inspection. |
| Master's fees | <ul style="list-style-type: none"> ■ Payment of Master's fees (4%). ■ Additional Master assesses the Distribution Account. ■ Consent to Cession. ■ Consent to transfer. ■ Consent to sale. |
| Register | <ul style="list-style-type: none"> ■ Update register and file record. |

SMALL CLAIMS

Confirm that the Court has monetary jurisdiction.

| ITEM | PROCESS |
|-------------------------|--|
| Letter of Demand | <ul style="list-style-type: none"> ■ The Clerk of Court gives the Plaintiff two (2) copies of a letter of demand to fill in. (Annexure SC 1) ■ The Clerk of Court stamps the copies and advises the Plaintiff to serve the Defendant. The Plaintiff can serve on his own, through the Messenger of Court or the Zimbabwe Republic Police. |



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| | <ul style="list-style-type: none"> ■ The Defendant can comply with the letter of demand. If he does not, then the Clerk of Court advises the Plaintiff to return to the Clerk of Court's office (14) days after serving Defendant. |
| <p>Summons</p> | <ul style="list-style-type: none"> ■ The Clerk of Court gives the Plaintiff four (4) copies of summons and a delivery affidavit to be filled in. (Annexures SC 2, 3 respectively) ■ The Clerk of Court allocates a case number and the Plaintiff pays the relevant fee. ■ The Clerk of Court enters the parties' name in the Small Claims Register, stamps and signs the forms. |
| <p>Record Opening</p> | <ul style="list-style-type: none"> ■ The Clerk of Court enters the parties' names, case number and return date on the record cover. ■ The return dates are at least seven (7) working days for those residing in Harare and at least (14) working days for those residing outside Harare. ■ The Clerk of Court files one (1) copy of each form in the record. ■ The Clerk of Court returns the rest of the forms to the Applicant and advises them to serve the respondents through the Zimbabwe Republic Police or the Messenger of Court and bring a return of service a day before the court day or on the return date. (Annexure SC 4) ■ The Clerk of Court indexes the Applicant's names in the index book in alphabetical order. ■ The Clerk of Court prepares the court roll and slots the records appropriately. ■ The Clerk of Court books the records in the Movement Register and takes them to the Magistrate who signs for the records a day before the return date. ■ The Clerk of Court collects the records from the Magistrate Court after the hearing and the Clerk of Court signs for the records to acknowledge receipt. ■ The Clerk of Court follows up on any missing records with the Magistrate. ■ The Clerk of Court updates the Small Claims Register and files the records appropriately. |



**STANDARD OPERATING PROCEDURES FOR
THE CLERK OF COURT- CRIMINAL REGISTRY:
CHIEF MAGISTRATE'S DEPARTMENT
OPENING OF RECORDS**

- Dockets are brought by police officers or on summons by prosecutors. **(Annexure CR1)**
- The prosecutor authorizes the opening of the record by appending his signature on the criminal docket.
- The Clerk of Court pulls out the charge sheet **(Annexure CR2)** and state outline **(Annexure CR3)** from the docket and places the same in the record. The charge sheet and state outline are stamped to authenticate.
- He/she allocates the next available CRB Number in the CRB Register. **(Annexure CR4)**
- He/she cross-references the police CR number to the CRB Register and CRB number to the police docket.
- The Clerk of Court endorses the name of the accused person, CR number, station, CRB number, charge and date of first appearance in the CRB Register and the same details must be written on the case record. **(Annexure CR5)**
- Where there is more than one accused person in a case, each one of them must be given a separate CRB number although one record is made out with all names of accused persons.
- The record is initially scanned.

RECORD MOVEMENT REGISTER

- The Clerk of Court enters the details of the record in the Record Movement Register which has the following columns:
 - Date
 - CRB number
 - Name of accused
 - Receiving Magistrate
 - Date returned
 - Clerk of Court's signature
- He/she takes the record to court and the Magistrate signs for the record.
- He/she receives the record from court and signs for it.
- After the case is dealt with, the Clerk of Court receives the record and signs for it.

INDEXING

- The Clerk of Court indexes the accused's name in the register soon after making entries in the CRB Register.
- The Clerk of Court enters the name of the accused person using his/her first name.
- The Clerk of Court enters the CRB number against the accused's name.



MAKING ENTRIES

- The Clerk of Court, on receipt of the record from court, must immediately make all the necessary entries on the outcome of the matter into the CRB Register, which could be sentence in full, warrant of arrests, committal warrants, remand date/s warrant of liberations or verdict as the case may be.

BAIL

- When the court orders the accused person to pay bail, the Clerk of Court takes the record to the fines office for bail payment and utilizes the Record Movement Register.
- Either the accused person, Legal Practitioner or a relative pays the amount ordered by the court and a receipt is issued out by the Accounting Assistant.
- One (1) copy of the bail receipt is filed in the record.
- A warrant of liberation is then issued by the Clerk of Court.
- Once a matter has been completed, the documents are returned to the owner or forfeited in the manner directed by the order of the court.
- A bail deposit must be refunded to the person who paid it.
- The bail receipt number is endorsed in the CRB Register and sent for scanning to the IT Department at the end of the day.
- If the accused is ordered to surrender a passport or title deeds, the Clerk of Court must demand these from the accused person before he/she liberates them.
- Passport/s or title deeds are recorded in their respective registers indicating the CRB number, charge and name of accused person/s.
- The Clerk of Court will not accept bail deposit if the accused person has not surrendered the required documents as per the court ruling.

FILING

- After entries have been made in the CRB and other registers, records are taken for further scanning.
- After scanning, all records are taken to the filing room where they are filed in their respective pigeon holes according to court dates.
- Completed cases are processed for scrutiny, review or appeal and those filed for checking by Magistrates.
- Remanded records are placed in the pigeon holes according to court dates.

PREPARATION OF A COURT ROLL

- There shall be a daily court roll.
- A day before a court hearing, the Clerk of Court arranges the records according to the court number written on the record.
- The Clerk of Court prepares a Court Roll and sends it for typing.
- The Clerk of Court must place the Court Roll on the notice board which is accessible to the public or at any prominent position for litigants.
- One (1) copy of the Court Roll is given to the trial Magistrate and another copy to the prosecution.



CVR REGISTER

- Where an accused person has been convicted and ordered to surrender a driver's licence for cancellation, prohibition and endorsement, the Clerk of Court receives the driver's licence from the accused person. **(Annexure CR6)**
- He/she endorses the relevant details in the Central Vehicle Registration (CVR) and completes the (CVR) forms and then attaches the relevant driver's licence according to instructions.
- The CVR form and the attached driver's licence are sent to CVR for further processing and the accused person is contacted to collect his or her driver's licence.
- In cases where the driver's licence is cancelled, it will not be returned to court.

TIME TO PAY

- Where an accused person has been granted time to pay by the court, the Clerk of Court completes the payment record sheets in duplicate and asks the accused person to sign. **(Annexure CR7)**
- One (1) copy will be filed in the record. The other copy will be filed in a box file according to dates.
- Where an accused person applies for an extension of time to pay, the Clerk of Court pulls out the record and the payment record sheet and places them before a Magistrate who will either give a further extension or refuse to extend the time to pay.
- Most accused persons apply for an extension of time to pay well before the due date. These are brought before a Magistrate for consideration.
- Where the Magistrate refuses to further extend the time to pay, the accused person will then serve the alternative sentence.
- Upon the expiry of the due date before the accused person has made payment, the Clerk of Court writes a warrant of arrest in duplicate and places it before a Magistrate.

WARRANT OF ARREST

- Where a Magistrate orders a warrant of arrest **(Annexure CR8)** against an accused person, the Clerk of Court completes two (2) copies of the warrant of arrest, one (1) for the record and one (1) for the relevant police station which must be forwarded through the police post and signed for. The Clerk of Court is required to maintain a Warrant of Arrest Register. The warrant of arrest is dispatched via the register and the police must sign for it. The Clerk of Court is required to update the Warrant of Arrest Register in terms of whether the accused person has been arrested and every three months as a way of enforcement. The warrant of arrest must be filed in a box file.
- A Magistrate is required to check this register once every month.

COMMUNITY SERVICE

- Where a court order is made for community service, the Clerk of Court

enters the court order in the CRB Register and fills in the placement forms.
(Annexure CR9)

- The Clerk of Court sends the placement forms to the institution.
- The Community Service Department vets the accused person on his/her suitability to perform community service.
- After being vetted, the accused is returned to court for consideration of the Community Service Officer's report.
- Where an accused person is sentenced to perform community service, the Clerk of Court conveys the record to the Community Service Office.
- After the placement papers are done, the Clerk of Court takes the record back for filing.

MENTAL PATIENTS

- Where a court orders that the accused person be examined in terms of the Mental Health Act [*Chapter 15:12*], the Clerk of Court must enter the details of the accused person in the Mental Health Register. The following must be completed:-
 - Entry date
 - CRB
 - Accused person
 - Date of committal
 - Magistrate
 - Date documents sent
 - Outcome
- The Clerk of Court writes to prison to have the accused person examined by two (2) doctors or one (1) doctor and a psychiatric nurse in terms of the section referred to by the court and to be examined within three (3) days by two (2) doctors or one (1) doctor and a psychiatric nurse.
- Upon receipt of the reports from two (2) doctors, the Clerk of Court immediately takes the reports to the Magistrate for further management.
- If the accused is found certifiable, the Clerk of Court must attach the medical reports in the record and send it to the Magistrate for him/her to commit the accused person to a mental hospital/institution for treatment.
- On receipt of the record from the Magistrate indicating that the accused has been committed to a mental hospital for treatment, the Clerk of Court prepares committal papers consisting of the following:
 - Report of the Magistrate – form MH 12 **(Annexure CR10)**
 - Medical certificate for admission to an institution – form MH 5 **(Annexure CR11)**
 - Reception order – form MH 4 **(Annexure CR12)**
 - Committal order – form MH 18 **(Annexure CR13)**
 - Certifying minute – that copies are true and correct copies of the originals
 - Charge sheet
 - Witness statements
 - Summary of the facts
 - Statement from relatives indicating the accused's mental history.



- A letter is written to the Superintendent of the mental hospital/ institution where the accused person is to be detained to receive treatment. The copies of the letter must also be sent to the Prosecutor General, Secretary for Health, the Prison and the District Administrator in whose area the accused person is resident/detained.
- Once committal papers are typed, they have to be forwarded to the Magistrate for his/her signature, and thereafter forwarded to the respective offices mentioned above.
- The Clerk of Court has to endorse that accused was committed to a mental institution in the CRB.
- The Clerk of Court ensures that the originals are left in the record which is filed away.
- The file is only retrieved when the accused has recovered and the Prosecutor General has directed that criminal proceedings be commenced against the accused person. The record is thereafter sent to court to commence or continue proceedings.
- Where a Magistrate invokes either section 54(1) or section 54(2), the Clerk of Court must make entries in the CRB Register and immediately submit this to the Prosecutor General. The Clerk must:
 - Arrange the contents of the record in the prescribed manner (paginations).
 - Affix the top copy of the signed typed covering letter at the top of the paginated longhand proceedings.
 - Place a copy of the covering letter in the record cover.
 - Post the record to the Prosecutor General's Office and endorse the dispatch details in the Mental Health Register.
 - Follow up with the Prosecutor General's Office if no response is received within a month, and thereafter, after every two (2) weeks.
 - Endorse the outcome upon receipt of the record and notify the Prosecutor and Magistrate concerned.
 - Endorse the outcome in the CRB and the Mental Health Register after trial.

SCRUTINY

- If an unrepresented accused person has been sentenced to a term of imprisonment exceeding three (3) months and below twelve (12) months or a fine exceeding \$100.00 and below \$300.00, the record must be sent for scrutiny.
- The Clerk of Court enters the details in the Scrutiny Register and allocates a scrutiny number on the scrutiny cover. **(Annexure CR 14)** The record is sent to the transcribers for typing of the scrutiny cover.
- The Clerk of Court must arrange the record and have it signed by the Magistrate.
- The record is sent for scrutiny within seven (7) calendar days from the date of sentence. The Clerk of Court must arrange the record in the following sequence:

TRIAL

- Judgment
- Mitigation
- Sentence
- Charge sheet
- State outline
- Proceedings
- Exhibits
- Closing submissions

Plea

- Reasons for Sentence
 - Mitigation
 - Charge sheet
 - State outline
 - Proceedings
 - Exhibits
- The record is placed before to the Magistrate for his/her signature.
 - The Clerk of Court must update the Scrutiny Register.
 - The date of dispatch to the Regional Magistrate should also be noted in the Scrutiny Register.
 - Upon return of the record from the Regional Magistrate, the Clerk of Court must update the Scrutiny Register as well as the CRB Register.
 - The record should be sent to the trial Magistrate for his or her sight.
 - If there is a white paper, the Clerk of Court must submit the record to the trial Magistrate for comments and resubmit to the Regional Magistrate within three (3) days.
 - If confirmed, the record must be filed after checking and after retrieving the record cover.
 - When the accused is represented or is a company, the record is not sent for scrutiny.

REVIEW

- If an unrepresented accused person has been sentenced to a term of imprisonment exceeding twelve (12) months or a fine exceeding level six (6) by a magistrate, the record must be sent for review.
- The Clerk of Court enters details in the Review Register and allocates a review number on the review cover (**Annexure CR15**). The record is sent to the transcribers for typing of the review cover.
- The Clerk of Court must arrange the record and have it signed by the Magistrate.
- The record is sent for review within seven (7) calendar days from the date of sentence. The Clerk of Court must arrange the record.
- The record must be submitted to the Magistrate for his/her signature.
- The Clerk of Court must update the Review Register.
- The date of dispatch to the Judge should also be noted in the Review Register.



- Upon receipt from the Judge, the Clerk of Court must update the Review Register as well as the CRB Register.
- The record should be sent to the trial Magistrate for his or her sight.
- If there is a white paper, the Clerk of Court must submit the record to the Judge for comments and resubmit to the Judge within three (3) days.
- If confirmed, the record must be filed after checking and after retrieving the jacket.
- When the accused is represented or is a company, the record is not sent for review.

APPEALS – WITHIN 20 DAYS

- Where an appeal has been noted, the Clerk of Court, upon receipt of a notice of appeal, retrieves the record and ensures the details are correct before stamping it. The Clerk of Court estimates cost of transcription the record of appeal.
 - A Notice of Appeal must be accompanied by the estimated cost of preparation of the record of appeal or an undertaking by the lawyer to pay costs of the preparation of the appeal record.
 - The Clerk of Court must then record the details and give an appeal number in the Appeal Register, i.e. names of the convict, charge, date of noting appeal and send the record to the Magistrate who dealt with the case for him/her to comment on the notice of appeal. The Clerk of Court must keep a record of movement, namely date sent to the Magistrate and date returned.
 - The record is taken to the Magistrate for his/her comments and must do so within two (2) days.
 - The record must be taken to the typists for a transcription of the record of proceedings and submit a copy to the Magistrate for proof reading. This must be done within ten (10) days.
 - The Clerk of Court must keep a proper record of the Movement Register.
 - The Clerk of Court must prepare the record for appeal purposes within two (2) days, by binding all the proceedings and placing in the appeal cover.
- (Annexure CR 16)**
- The Clerk of Court writes a notice of inspection to the Appellant or his lawyers to come and inspect the record within five (5) days. If the lawyer does not come for inspection, the Clerk of Court writes to the Registrar of the High Court for dismissal of the appeal.
 - The original record and four (4) copies are sent to the High Court. The Clerk of Court must keep a record of movement of the record to the High Court. He/she must make sure that the dispatch book is signed and stamped by the High Court Registry.
 - One (1) copy is retained for the Appellant's Legal Practitioners who shall pay the costs of the transcript.
 - The last copy is filed in the court record cover and the record cover is filed in the office.
 - On receipt of the record from appeal, the Clerk of Court shall record the results in the CRB and the record is checked and then filed away.

- If the appeal is dismissed when the Appellant is out on bail pending appeal and the appellant does not surrender himself/herself to the Clerk of Court within the prescribed time, the Clerk of Court must cause a warrant for his/her arrest to be issued.
- Where the sentence is reduced, the Clerk of Court requests for the prisoner to be brought to court to be informed about the alteration.
- If the fine has been reduced by the appellate court after it had already been paid, then a refund should be paid.
- The Clerk of Court also records the reduced sentence accordingly and informs the CCB. Where the sentence is set aside, the Clerk of Court records it in the CRB and informs the CCB.

APPEAL FORMAT

For submission to the Registrar of the High Court, the appeal must have the following format:

- Index
- Notice of Appeal
- Magistrate's comment
- Judgment and sentence/ Sentence only in pleas
- Charge sheet
- State outline
- Record of proceedings
- Defence outline (not applicable in pleas)
- Magistrate's notes (on original copy)
- Lists of exhibits
- Exhibits (documentary)
- Previous convictions (if applicable)
- Warrants
- Closing submissions

NB: Appeals must be submitted to the High Court within (20) days from date of noting of the appeal.

EXHIBITS

- The Clerk of Court must seek confirmation from the presiding Magistrate on whether he/she should accept the exhibit.
- The Clerk of Court is to identify the exhibit per entry in the police exhibit book brought by the Police Station and the tag.
- A brief description of the item (quantity, colour, quality, value etc.) should be noted in the exhibit.
- The exhibits brought by the police should be classified as either valuable or non-valuable and the appropriate exhibit book to use must be selected:
 - Valuable Exhibit Book (cash, minerals, drugs, firearms, ivory, pangolin, etc.)
 - Non-Valuable Exhibit Book (clothes, knives, cellphones etc.)
 - Perishables Exhibit Book (vegetables, meat etc.)



- Confirm that a trial date for the relevant matter has been set-down from the court record or the summons.
- The following details must be captured:
 - Name of accused
 - CRB number
 - CR Number
 - Police Station
 - Owner (if known)
 - Owner's address and contact numbers
 - Where money is involved, capture the serial number of each note.
 - For gold, an assayer's report must be attached from the Ministry of Mines.
- Cross reference i.e. enter the police reference number in the Court Exhibit Book and supply a court exhibit number to the police.
- Do handover and takeover by signing. The Clerk of Court should sign in the Police Register and the Police should sign in the Clerk of Court's Exhibit Register to confirm receipt and deposit at court.
- Store the exhibits in the appropriate places:
 - Strong Room for valuable exhibits.
 - Non-valuables exhibits in the room provided.
 - Perishable exhibits must be promptly referred to the Magistrate for a disposal order.
- **Secure the room by locking up the room:**
 - Exhibit Register to be kept as a security item.
 - Physical barriers must be erected to restrict access to areas where valuables are kept.
 - Only authorised and identifiable personnel must have access to the exhibit room.
- **Keys to the exhibit room:**
 - Only the Exhibit Clerk must have the keys.
 - The spare keys must be kept at the bank for safe custody.
 - The receipt from the bank must be kept by the Provincial Accountant.
 - When handing over the key to the bank, a committee must be constituted and for deposit and retrieval from the bank, a committee comprising heads of four (4) departments must sign and the transaction must be minuted.
 - The keys must be rotated every six (6) months along with a change of locks.
 - At no time should the Exhibit Officer give anyone those keys without a proper handover-takeover.
 - Other security measures include the introduction of CCTV, biometric access, cameras and alarms.
- **Managing exhibits for court use:**
 - The Prosecutor should fill in a request form to the Exhibit Officer, check

the details on the form for correctness and identification of the right exhibit.

- The Clerk of Court withdraws the exhibit from the exhibit room and does a proper handover-takeover with the Police Court Orderly.
 - The Clerk of Court receives the exhibit after use and does another handover-takeover to ensure that the exhibit has not been tampered with.
 - Store exhibit.
 - The Clerk of Court must do a cross-reference of the Exhibit Register with the CRB Register and update both registers on the progress of the case. The Magistrate must endorse the exhibit number on the record cover and how it is to be disposed of, either immediately during trial or at the completion of the case.
- **Disposal of exhibit:**
 - The Clerk of Court follows the court order and surrenders the items after a proper handover-takeover to the named individual and this must be witnessed by an Administration Officer. The Clerk of Court enters the name, physical address and cell phone/landline numbers of the person collecting the exhibit. These can independently be verified by Internal Audit or a checking Magistrate.
 - There must be biometric endorsement of the right thumb of anyone collecting the exhibits.
 - The Clerk of Court is to approach the Magistrate responsible for exhibits for the purposes of disposal, who should give directions on whether to burn, auction or receipt the exhibit.
 - A committee of four (4) must be constituted, consisting of a checking Magistrate, a Prosecutor, a Clerk of Court and a Police Officer and they must all sign after destruction in the Exhibit Register.
 - The committee must sign on the day of disposal.
 - Where the accused admits his/her guilt in terms of section 356 of the Criminal Procedure and Evidence Act [Chapter 9:07] or where the exhibit is not required for criminal proceedings, the exhibit must be returned to the owner and if the owner fails to take the article within three (3) months, it shall be forfeited to the State.
 - In terms of section 61 of Criminal Procedure and Evidence Act which provides for the disposal after commencement of criminal proceedings wherein a Magistrate has discretion to return the item to the owner or holder and if he/she cannot be traced, it shall be forfeited to the State within three (3) months from date of seizure of the article.
 - In terms of section 62 of the Criminal Procedure and Evidence Act, any weapon or instrument used to commit an offence or which is intrinsically unlawful shall be kept for three (3) months awaiting any application to reclaim it and thereafter shall be destroyed.
 - Guns and ammunition are to be surrendered to the Ministry of Home Affairs and minerals to the Ministry of Mines, who must acknowledge receipt in writing and weigh and classify the mineral.



- Money forfeited must be receipted into the Revenue Account.
 - Cocaine must never be destroyed at court and must be surrendered to a Police Officer in command of the Police District to whom any dangerous drugs are delivered within seven (7) days after completion of the case in terms of Part 5 of section 14(g) of the Criminal Law Codification and Reform Act [Chapter 9:23].
 - Old bank notes, Rands, Kwachas, Pounds and any other foreign currency must be surrendered to the Reserve Bank of Zimbabwe (RBZ) and a receipt of acknowledgment must be issued and be attached in the Exhibit Register.
 - Any other items of value must be disposed of through an auction conducted by an Auctioneer and proceeds must be receipted in the Revenue Account.
- **Handover-Takeover process**
 - If the custodian of the exhibits is away, he or she must do a proper handover-takeover before departure and must sign a certificate in the presence of a witness. A copy of the certificate must be filed with the Head of Office and in the Exhibit Book.
 - The job- description of the Exhibit Officer must be displayed on the wall which includes:
 - Receiving exhibits from the police.
 - Being accountable for the custody of the exhibits.
 - Disposing of the exhibits after use.
 - Exhibits for completed cases must be disposed of within thirty (30) days.
 - The Clerk of Court must follow-up on completed cases without the Magistrate's disposal order.
 - The Clerk of Court must contact the owner to come and collect his goods and inform them that the goods will be destroyed if not collected.
 - Call-in letters to be dispatched to owners.
 - Checking of exhibits must be done by Magistrates.
 - Monthly returns must be compiled by the Exhibit Officer.
 - The Magistrate must check all exhibits at hand on the format of exhibits at hand as at the end of the month. The Magistrate must tick on each exhibit number against the physical item in the exhibit room in the presence of the Exhibit Officer and a witness, preferably an Administration Officer.

National Archives

- Records are kept for three (3) current years before they are sent to the National Archives.
- Each deposit consists of 50 archive boxes.
- A Transmittal List indicating the year, station, department, range of records in the box is completed by a Clerk of Court.
- At the end of the Transmittal List, a list of missing records in each box is shown indicating the range of records in the box.
- The Transmittal List is prepared in triplicate.
- One (1) copy is filed for the record.



- Two (2) copies are submitted to the National Archives.
- A copy indicating the location and box number is received by the Clerk of Court from the National Archives.
- To retrieve a record from the National Archives, the Clerk of Court writes out a request quoting the location, box number and CRB number.

REGISTERS

The Clerk of Court must maintain the following registers:

- CRB Register
- Record Movement Register
- Exhibit Register
- Passport Register
- Warrant of Arrest Register
- Warrant of Arrest Enforcement Register
- Time to Pay Register
- Time to Pay Enforcement Register
- CVR Register
- Community Service Register
- Mental Health Act Register
- Sections 54(1) and 54(2) Register
- Review Register
- Scrutiny Register
- White Paper Register Appeal Enforcement Register
- Completed Cases Register



**STANDARD OPERATING PROCEDURES FOR THE
MAGISTRATES IN CIVIL CASES:
CHIEF MAGISTRATE'S DEPARTMENT**

1. INTRODUCTION

The operation and functions of the civil court in the Magistrates' Court are guided by the provisions of the following:

- a. The Constitution of Zimbabwe, 2013
- b. The Magistrates' Court Act [Chapter 7:10]
- c. The Magistrates Court (Civil) Rules, 2019
- d. The Civil Evidence Act [Chapter 8:01]

The form of civil proceedings in the Magistrates' Court can be by way of Action or Application.

1. ACTION PROCEDURE

This procedure is mainly used where material disputes of fact are anticipated. It is also used where the rules require that such a matter be brought by way of action. This is done by issuing summons in terms of Order 8 of the Magistrates' Court Civil Rules.

a) Summons commencing action (**Annexure 1**)

This is the first pleading in the process of commencing action against another party. The person bringing the matter is referred to as a Plaintiff and the person against whom the claim is made is a Defendant.

The summons must contain the following:

- The particulars of the claim
 - They shall appear on the face of the summons.
 - Be signed by the plaintiff, or any other person authorised in Order 4 of the Civil Rules.
 - Must show the nature and amount of the claim, the rate of interest, whether costs will be claimed, any abandonment of part of the claim and any set-off.
 - If the particulars contain more than 100 words, they may be contained in an annexure served with the summons.

- The summons shall give an address of service
 - Which shall be within a radius of 15 kilometres of the court-house from which it is issued; and
 - The postal address of the plaintiff
 - Where there are fewer than three legal practitioners practising independently of one another within 15 kilometres from the court house the address of service may be farther than 15 kilometres from the court house.

- The period within which defendant is called upon to enter an appearance which shall not be less than seven (7) days if the

defendant resides, or fourteen (14) days if the defendant does not reside within the area of jurisdiction of the court from which the summons is issued.

- Summons commencing action must be served on the defendant by the Messenger of Court.
- On issues which affect the personal liberty of a litigant such as Civil Imprisonment, summons must be served personally on the litigant.
- Summons are only served by the Messenger of Court unless directed otherwise by a court.
- Any service of process shall not be valid if served between 10 pm and 6 am.
- Service of Summons can only be done in the following manner:
 - On personal delivery to the defendant or his duly authorised agent.
 - By delivery to a responsible person at the residence or place of business of the defendant.
 - If the person to be served prevents service, and his/her address is known, by leaving a copy of the summons in a letterbox at or affixed to or near the outer door or any conspicuous position at the residence, place of business or employment as the case may be.
 - To a body corporate, by delivery at the body corporate's place of business or registered office.
- Proof of service is shown by a return of service endorsed by the Messenger of Court.

b) Appearance to defend –

- This is filed by the Defendant where he intends to oppose the Plaintiff's claim in the summons.
- This must be filed with the Clerk of Court not more than seven (7) days after service of summons if Defendant resides within the jurisdiction of the court from which the summons was issued or not more than fourteen (14) days after service of summons where Defendant resides outside the jurisdiction of the court from which the summons was issued.
- Where the appearance is filed after the expiry of the period mentioned, it shall be effective if a request for default judgment has not been made.

c) Default Judgment –

- A Plaintiff can make a request for default judgment, in the following instances;
 - Where the Defendant fails to enter his appearance to defend within the stipulated time.
 - Where, after filing an appearance to defend, the Defendant fails to file his plea upon being requested to do so.



- Where a record is placed before the Magistrate with a request for default judgment, the Magistrate must check the return of service to ensure that Defendant was properly served. He must also check if the notice to plead was filed, where there is an appearance to defend filed.
- d) Summary Judgment –
- This application is made by a Plaintiff who is of the opinion that the Defendant has no defence, and that an appearance was entered simply to buy time.
 - It can only be made in the following instances:
 - Where the claim is on a liquid document
 - For a liquidated amount of money
 - For the delivery of specified moveable property
 - For ejectment:
 - The application must be supported by a Plaintiff's founding affidavit, verifying the cause of action and the amount claimed, if any;
 - Stating that in his or her belief Defendant does not have a bona fide defence to the action; and
 - That appearance has been entered solely for the purpose of delay.
 - If the claim is liquid, a copy of the liquid document on which the claim is founded must be attached supported by an affidavit.
 - The application is made on seven (7) days' notice to the other party
 - On receiving the application:
 - The magistrate must be alive to the procedure that no evidence may be adduced by the Plaintiff otherwise than by the founding affidavit (this would have been served with the notice of the application),
 - Or the production without evidence of the liquid document sued upon.
 - The Plaintiff may not cross-examine any witness called by the Defendant, but any such witness may be questioned by the court and re-examined by the Defendant.
 - The Magistrate must satisfy himself that;
 - The Defendant paid into court to abide by the result of the action, the sum sued for, together with such sum of costs as the court may determine.
 - If this has been done the court shall give leave to defend. This means the court will direct that the action shall proceed as if no application under this order has been made.
 - Or, the Defendant gave security to satisfy the judgment. Where this has been done the court shall also grant leave to defend.

- Or, the Defendant from the affidavit filed and supported by viva voce evidence or otherwise, that he has a good prima facie defence to the action.
 - Where the Magistrate is so satisfied he can order that the action proceeds to trial.
 - Where there are two or more Defendants and the Magistrate is of the opinion that one has a good prima facie defence he may give leave to defend to the Defendant so entitled
 - Where a Defendant has a plausible defence on part of the claim, the Magistrate shall give leave to defend such part of the claim and enter judgment as to the balance of the claim.
 - The Plaintiff shall be allowed to replicate in respect of the part of the claim the Defendant is granted leave to defend
- e) Plea –
- A plea shall be made by the defendant within seven (7) days after –
 - entry of appearance; or
 - delivery of further particulars; or
 - the dismissal of an application for summary judgment; or
 - the dismissal of an exception, motion to strike out or special plea; or
 - Any amendment of the summons allowed by the court at the hearing of such exception, motion or special plea.
 - A plea shall contain the following;
 - An admission or denial by the defendant; or
 - A confession and avoidance of every material fact alleged in the particulars to the summons
 - A clear and concise statement of the nature of the defence and all the material facts on which it is based.
- f) Plaintiffs' Reply –
- If the plea is other than a bare denial, the Plaintiff may within seven (7) days after delivery of the plea or delivery of further particulars; deliver a statement in writing known as a reply.
 - It is not mandatory for the Plaintiff to file a reply.
 - If it is not filed it shall be taken that the Plaintiff would have denied all the allegations of fact contained in the plea.
- g) Closure of pleadings –
- This is signified by the expiration period limited for reply.
- h) Discovery –
- At this stage, parties are expected to deliver to each other's legal representative, a schedule of books and documents to be used during the trial.
 - A book or document not disclosed in terms of the Rules, cannot be used for any purpose in the trial without the leave of the

court. The Magistrate in allowing the use of the documents not discovered must put terms as to adjournment and costs as may be just. The other party may call for and or use such book or document in the cross examination of a witness.

- i) Pre-Trial Conference –
- Any party to the action can make a request for the other party to attend a Pre-Trial Conference at a mutually convenient time and place.
 - A Pre-Trial Conference can be held either by the parties alone or in the presence of the Magistrate.
 - Where the parties have concluded a Pre-Trial Conference in the absence of the Magistrate, the parties shall draw up a minute of the conference proceedings and it must be signed by the parties or their legal practitioners.
 - Where a pre-trial is held before a Magistrate, it shall be in Chambers.
 - The Magistrate must direct the Clerk of Court to notify the parties to appear in his/her Chambers, on a date and at a time specified in the notice. This should be on reasonable notice to the parties.
 - The purpose of the Pre-Trial Conference is to attempt to reach an agreement on the possible ways of expediting or curtailing the duration of the trial.
 - Upon the conclusion of a Pre-Trial Conference, the Magistrate is expected to do the following;
 - Record any decisions taken at the conference and any agreements reached as to the matters to be considered; and
 - Make an order limiting the issues for trial to those not disposed of by admission or agreement; and
 - Give directions as to any matter raised;
 - Record the refusal of any party to make an admission or reach agreement. The reasons for such refusal must be recorded.
 - A Magistrate has power to dismiss a party's claim or strike out his defence or make any other appropriate order if:
 - A party fails to attend a Pre-Trial Conference set down by the Clerk of Court; or
 - Refuses to agree or consent with the request for the holding of a Pre-Trial Conference; or
 - If at a conference held between the parties in the absence of the Magistrate, the parties cannot agree on matters to the dispute.
 - Any such decision to dismiss the claim or strike out a defence must be made judiciously and objectively.
 - The Magistrate, other than dismissing the claim or striking out the defence, may make any other order which is appropriate.



- j) Set-Down for Trial–
- This can be done by the Plaintiff within fourteen (14) days after the Pre-Trial Conference, or upon his failure, by the defendant thereafter.
 - Service of the notice of trial, including notice for reinstatement where the trial has been adjourned or postponed indefinitely, shall be effected at least seven (7) days before the day approved for trial by the Clerk of Court.
 - A diligent Magistrate must ensure that he/she has the record well before trial and would have read all pleadings before trial starts. He must check if all pleadings outlined above are in the record.
- k) Trial–
- Convening a Court:
The following officers of the court must be present before the Magistrate comes into court. A court is regarded as properly constituted when these officers are all present.
 - Interpreter;
 - Recorder (in courts where there are mechanical recording tools);
 - Litigants (and their counsel where they are legally represented); and
 - Court Orderly.
 - Entry of Magistrate into court:
 - In practice, it is the function of the court interpreter to usher the Magistrate into court.
 - On entry of the Magistrate, all officers of the court and any members of the public in the gallery must rise.
 - Before taking the chair, the Magistrate acknowledges the respect from the officers of the court and the gallery by making a slight bow.
 - The officers in turn bow back in respect and take their seats at the bar after the Magistrate has taken his/her seat.
 - The court orderly also signals the public to take their seats in the gallery.
 - Opening Addresses –
 - The Magistrate may require the parties to state shortly the issues of fact or questions of law which are in dispute and must record the issues so stated.
 - Burden of Proof –
 - Unlike in a criminal trial, if on the pleadings the burden of proof is on either the Plaintiff or Defendant, the one with such burden must first adduce evidence.
 - If the burden of proof is on both the parties, the Plaintiff shall call his evidence first.

- Plaintiff's Case
 - Plaintiff's case opens, and calls witnesses to adduce evidence.
 - All witnesses must be sworn before giving evidence. For some reasons, religious or immaturity, a witness may be allowed to give evidence under affirmation.
 - Evidence-in-chief is given when the witness testifies. After evidence-in-chief, the witness is cross-examined by the Defendant or his Legal Practitioner.
 - After cross-examination, the witness is re-examined by the Plaintiff or his/her Legal Practitioner. Re-examination must only be on new issues arising during cross-examination.
 - The documents or any other exhibits discovered, may be produced as evidence. Where a document has not been discovered, it shall not be used for any purpose in the trial without the leave of the Magistrate. The Magistrate in allowing the use of the documents not discovered must put terms as to adjournment and costs as may be just.
 - Witnesses must be thanked for giving evidence and formally advised that they are excused from further attendance.
 - After leading evidence from all witnesses, the Plaintiff's case closes.

- Absolution from the instance -
 - At the close of the Plaintiff's case, the Defendant may apply for absolution from the instance. This happens where the Defendant is of the opinion that the evidence led does not prove the Plaintiff's claim.
 - If it is the case, the Magistrate must grant absolution.
 - The court may make an Order for Absolution from the instance mero motu, if it is of the opinion that the party with the burden of proof failed to discharge that onus.
 - Reasons for such decision must be given in writing.
 - However, if an Application for Absolution from the instance is dismissed or if no such application is made, the matter proceeds to the Defendant's case.

- Defendant's case opens –
 - During Defendant's case, each witness is sworn or gives evidence under affirmation.
 - The Plaintiff or his Legal Practitioner has right to cross examine each witness after the witness' Evidence-in-chief.
 - The Defendant or his Legal Practitioner may re-examine on issues arising during the cross examination.
 - The Defendant may through these witnesses produce any documents discovered.
 - All witnesses must be thanked for giving evidence and



formally advised that they are excused from further attendance.

- When the Defendant no longer wishes to call any more witnesses the Defendant's case closes.

- Closing Addresses

- These are not mandatory.
- Where the parties so wish, the procedure is that the party who first adduced evidence may first address the court, and thereafter the other party has its opportunity.
- The party who first adduced evidence may then reply.

l) Judgment

- The Magistrate is required to deliver a written judgment covering all the issues of the trial.
- The decision must account for all evidence received. None of the issues must be ignored.
- Decision must find for the Plaintiff or the Defendant.
- An order for costs must be made.

2. APPLICATION PROCEDURE

This procedure is used to bring a claim to court where there are no material disputes of fact.

a) Notice of Application –

- Where a party commences proceedings by way of application, he is known as the Applicant. The other party against whom the claim is made is referred to as the Respondent.
- An application affecting any other party, shall be on not less than seven (7) days' notice to such other party.
- The notice shall be supported by an affidavit.
- It must state in brief the terms of the order being sought and the time at which the application will be made to court.
- If the Applicant is represented the application shall be accompanied by a draft of the order being sought.

b) Notice of Opposition –

- It must be delivered by the Respondent not less than forty-eight (48) hours before the time stated in the application.
- It must be in writing; it can state the following;
 - That the Respondent consents to the order mentioned in the application; or
 - That the Respondent opposes the application; in that case this must be accompanied by an opposing affidavit. The affidavit must set out the grounds for opposing the order, any denial of fact or additional facts must be contained therein.



- c) Answering Affidavit –
- The Applicant may reply to the opposing affidavit.
 - If an Applicant is legally represented the response must be filed together with his Heads of Argument.
 - If not represented, the reply shall be filed at least twenty-four (24) hours before the time fixed for hearing. Such a party is not required to file Heads of Argument.
- d) Hearing –
- The Magistrate must check if the matter was properly set down.
 - He/she must check if all the above named pleadings were filed.
 - During the hearing of the matter, preliminary issues (*points in limine*) may be raised by the parties.
 - The party who raises points in limine is the one who should address the court first and the other will respond.
 - The matter may be disposed of on points in limine raised.
 - If the points in limine raised are dismissed by the court, the parties will then proceed to address the court on the main application.
 - The Magistrate must be alive to the fact that this is not a trial, hence no witnesses are called. All issues are dealt with on the papers and addresses by the parties.
- e) Orders by the Court -
- After hearing the parties, the Magistrate may do any of the following;
 - Refuse the application and give written reasons for his decision.
 - Grant the order applied for or make any variations to the order.
 - The Magistrate must not grant what has not been prayed for. Full written reasons must be provided.
 - Order that the issue be tried by way of action and give directions as he/she thinks just to enable the matter to be brought to trial.
 - The Magistrate must make an order as to costs as he thinks just. The Magistrate after making this order becomes *functus officio* and cannot preside over issues such as the taxation of such costs.

3. EX PARTE APPLICATIONS

- An *ex-parte* application can only be made in the following instances;
 - For an order in terms of section 12 of the Magistrates' Court Act. This relates to an order for *tamquam suspectus defuga*. This procedure allows for the arrest and detention of a debtor in circumstances where a creditor reasonably believes that a debtor is about to flee the country with the purpose of avoiding the repayment of a debt.

- An attachment, an interdict or a spoliation.
 - Application for interdict where a child is about to be removed from the court's jurisdiction.
 - For the purposes of attachment to confirm jurisdiction.
 - Garnishee orders.
 - Or where the procedure is provided for in the rules or any other enactment.
- A Magistrate is obliged to dispose of such an application within the shortest possible time. By its nature the application is urgent.
 - Upon receiving an ex-parte application the Magistrate must satisfy himself that the application meets the requirements as set out in the Rules of Court.
 - The application must be as a result of the situations listed above. In addition, the Magistrate must ensure that the application shall be accompanied by the following;
 - The terms of the order applied for, and
 - The grounds on which the application is made;
 - It must be supported by an affidavit, except where otherwise provided.
 - It must be signed by the party making the application.
 - If the Magistrate is satisfied that the matter meets the requirements for an ex parte application, and deserves the order prayed for, he/she will grant the interim order being sought.
 - The Clerk of Court must at the instruction of the Magistrate, provide a return date for the discharge or confirmation of the interim order.
 - On the return date, the Magistrate must ensure that the other party has been served. Magistrate must hear why the respondent is opposing the granting of the final order.
 - After the hearing, the Magistrate must give an order confirming or rescinding the interim order.
 - If the Magistrate is of the opinion that it is fair and just to hear the other party before granting the interim order, the matter will proceed as an ordinary application to be served on the other party.
 - If he/she decides that the matter should proceed on notice, the magistrate should endorse this on the record and provide such reasons.
 - *Ex parte* applications are contrary to the *audi alteram partem* rule. They can only be resorted to in extreme circumstances. The examples where the applications are appropriate which are given in the rules must serve as a guide to the circumstances under which the procedure can be resorted to.
 - Magistrates must guard against abuse of the procedure and grant orders without hearing both parties. The availability of the urgent applications procedure removes the need to resort to ex parte applications in many instances, particularly where a party alleges to have been unlawfully evicted from premises.

4. URGENT APPLICATIONS

- This is an application made to a Magistrate on an urgent basis.
- It must be supported by an affidavit of the applicant where he /she is not legally represented or by a certificate of a legal practitioner where the applicant is represented vouching the urgency of the matter.
- When that happens, the Magistrate must give directions that the application be served on the other party.
- He/she must specify the period within which the respondent's opposing affidavit, applicant's answering affidavit and the parties' Heads of Argument may be filed.
- He/she must also state the date and time on which the application can be heard.

5. WRIT OF EXECUTION AGAINST PROPERTY OR EJECTION

- After the court has delivered judgment or granted an order, the party in whose favour the order was made, prepares a writ that he/she files with the Clerk of Court.
- It is the Clerk of Court who issues this writ.
- However, before the Clerk of Court issues the writ, the practice is that it should be brought before a Magistrate for authorisation.
- The Magistrate should check and satisfy himself/herself that the writ contains the order which he granted and the exact scale of costs awarded.
- Upon satisfying himself/herself that the writ is in order, the Magistrate shall endorse on the face of the writ and record cover that the issuance of the writ is authorised by appending his signature and date.

6. PROTECTION ORDERS

- A party wishing to apply for a Protection Order makes his/her application by filing in the Domestic Violence Act Forms.
- The application is made *Ex-parte*, with a return date where the final order is sought. The Magistrate on receiving the application in Chambers, must ensure that the forms are filled in triplicate.
- The Magistrate must ensure that the following forms are filled:
 - Notice for Application for a Protection Order. The set-down date must be endorsed by the Clerk of Court - Form P.J. 1.
 - An Application for a Protection Order – DV 3 Form.
 - An affidavit which must contain the basis for the claim. This is attached to the DV 3 Form.
 - An interim order - DV 6 Form.
 - Final Order to be granted by the court - DV 7 Form. This is only filled in and signed on the return date after the Magistrate grants the final order.
 - The relief sought must be clearly indicated on the DV Forms.



- The application is an urgent one. The Magistrate must immediately assess the application placed before him/her.
 - If the Magistrate is satisfied that the relief sought is urgent, he must grant the interim order as indicated in DV6 Form. The Magistrate may vary the order as he deems fit.
 - If the application is vague and has outstanding issues he/she may refer the matter to trial.
 - This is endorsed on the application. The full reasons must also be endorsed.
 - The interim relief granted must be recorded on the record.
- The interim order must be served on the Respondent and a return date shall be provided by the Clerk of Court.
- On the return date, the Respondent is expected to have filed her/his response to the application.
- The Magistrate must conduct a hearing wherein both parties must be heard. This is an application and not a trial. The Magistrate however has discretion to hear evidence of witnesses.
- The Applicant will present his/her case first and the respondent may be given the chance to cross examine her/him. After the Applicant has closed his/her case, the Respondent will open his case and he may be cross-examined by the Applicant if he so wishes, and the Respondent's case is closed.
- Magistrate must make a full ruling on the matter. It must have reasons for the decision. If an interim order was granted, the Magistrate can either confirm or discharge the order.
- Upon granting the order, he/she must endorse this order on the DV7 Form. This will serve as the final order. It is not a requirement to type a separate order.
- The Magistrate must sign all the relevant portions to be signed by him on all the forms. He must duly stamp the order.



STANDARD OPERATING PROCEDURES FOR THE MAGISTRATES IN CRIMINAL CASES: CHIEF MAGISTRATE'S DEPARTMENT

1. INTRODUCTION

The operations and functions of the criminal court in the Magistrates' Court are guided by the provisions of the following:

- a. The Constitution of Zimbabwe, 2013
- b. The Magistrates' Court Act [Chapter 7:10]
- c. The Criminal Procedure and Evidence Act [Chapter 9:07] and
- d. The Criminal Law (Codification and Reform) Act [Chapter 9:23]

Criminal trials usually proceed in two broad ways namely the plea of guilty procedure or the contested trial procedure.

The court mutates into a number of forms which are informed by the work it will be dealing with at a particular time. These various types of the criminal courts are not legally binding and remain informal.

■ Remand Court/Bail Court

This is the court in which the accused appears for the first time following his/her arrest. During that appearance the prosecution applies for placement of the accused on remand. The issue of consideration of the admission of the accused to bail may also arise. It is also that court which deals with what are called subsequent remands pending trial.

■ Plea Court

This is a court which deals with matters of accused persons who will be admitting the charges against them.

■ Trial Court

This is the court which handles contested trials.

2. MAINTENANCE OF COURT RECORDS

Section 5 of the Magistrates' Court Act requires every Magistrate's Court to be a court of record. Where there are no mechanical tools to record proceedings, the trial magistrate **MUST** keep a full handwritten record of the proceedings. He or she must make full, clear and accurate written notes of everything that is said and everything that happens during the hearing of the case which is of any relevance to the outcome of the case. This includes gestures and other non-verbal communication made by the accused or by witnesses where such have a bearing on the outcome of the case.

Where the proceedings are recorded mechanically, the magistrate may in addition, keep a handwritten record. The record of proceedings must be kept in the English language. All witnesses must give oral evidence except in those circumstances provided for under the law. Evidence-in-chief can normally be



paraphrased by the Magistrate except for important aspects which must be fully recorded. All cross-examination must be taken down verbatim in question-and-answer form.

Preliminaries

Securing the attendance of the accused

The attendance of an accused at court may be secured in a variety of ways the commonest of which are:

a) Summonses (Annexure 1)

A summons is a document requiring the accused to appear in court on a specified date and on particularised charges. It is issued by the Clerk of Court at the request of a Public Prosecutor. Once issued the summons is returned to the prosecutor for service on the accused. That service can be in any of the ways indicated below:

- Service upon accused personally.
- Placing it at a conspicuous place at accused person's place of residence.
- Leaving a copy with an adult at the appointed address.
- The summons must have the following details:
 - Full names of the accused
 - Address where it is to be served
 - Full particulars of the charge
 - Full description of the court where accused is to appear; the date and time of appearance must also be endorsed
 - Must be duly issued, signed and date stamped by Clerk of Court.
- Signing of summons by accused as acknowledgement of receipt is not a legal requirement. It must therefore not be insisted upon.
- Endorsement that service has been effected by the police officer who served it fully describing the manner of service and identity of the officer is enough proof of that service.

b) Warning in Court/Remand

- Accused is advised by Magistrate of his future date of appearance in open court. He/she must be personally in attendance. Mass remands of accused persons where several accused facing different offences are called into the dock and collectively given a date on which to return to court are illegal.
- The details of the remand together with the prosecution's reasons for requesting the remand must fully be endorsed in the record. Additionally, the date of remand must be endorsed on the outer cover of the record.



c) By Warrant of Arrest (Annexure 2)

When accused was previously served with a summons or was personally warned by a court to appear, he/she may have a warrant of his/her arrest issued against him/her. He/she shall appear following the execution of that warrant of arrest by the police.

Securing attendance of witnesses

(a) By Subpoena (Annexure 3)

The subpoena is issued by the Clerk of Court at the request of the prosecutor. It must bear the following:

- o Complete particulars of the witness such as full names, address, be signed and date stamped by the clerk;
- o Names of accused at whose trial the witness shall testify;
- o Date and time on which the witness must attend court;
- o Brief details of the charge that the accused faces; and
- o Full description of the court in which accused must appear;
- o Witness' failure to appear attracts the same consequences as the failure of an accused.
- o On the appointed date witness must be called clearly, for three times outside the court room. Where the witness is not in attendance, the prosecutor shall apply for a warrant of arrest. The court upon satisfying itself that there is proof that the witness was duly served to appear, shall issue a warrant for the arrest of the witness. Like any other proceedings, that process is fully recorded. The order is endorsed on the record cover.

Convening a Court

The following officers of the court must be present before the Magistrate comes into court. A court is regarded as properly constituted when these officers are all present.

- Prosecutor
- Interpreter
- Recorder (in courts where there are mechanical recording tools)
- Accused (and his counsel where he is legally represented)
- Court Orderly
- Prison Officer

Entry of Magistrate into court

- o In practice, it is the function of the court interpreter to usher the Magistrate into court.
- o On entry of the Magistrate, all officers of the court and any members of the public in the gallery must rise.
- o Before taking the chair, the Magistrate acknowledges the respect from the officers of the court and the gallery by making a slight bow
- o The officers in turn bow back and in respect and take their seats at the bar after the Magistrate has taken his/her seat.



- o The court orderly also signals the public to take their seats in the gallery.

Initial Remand Court

- o The court orderly calls the accused's name three times from outside the entrance of the courtroom. Where the accused is in attendance he or she is directed to enter the dock.
- o The interpreter confirms with accused if indeed he/she is the right person by asking accused to confirm his/her names.
- o The interpreter ascertains and confirms the language which the accused prefers to use; normally it is the language in which the accused is conversant. The explanation is critical as some accused may feel obliged to use English.
- o Soon after ascertaining that, the interpreter's role is to interpret and not to not to lead the proceedings.
- o The Prosecutor announces to the court the purpose of proceedings; e.g. that the accused intends to apply for bail.
- o The accused may be appearing in person or be represented by counsel.

Where accused is unrepresented

- o The Magistrate explains to the accused the purpose of the hearing and advises him/her of:
 - Rights to legal representation; humane treatment whilst under police custody; to contact lawyer/relative at State's expense; to be brought before a court within forty-eight (48) hours and the available remedies on breach of any of those rights.
 - Right to bail on less onerous conditions pending trial.
- o Magistrate must ask the accused to confirm if he/she has understood the explanations. In addition, the Magistrate is required by law to record the fact that the accused has been given the information referred to above and the accused's response to it.
- o The Magistrate must invite the accused to raise any complaints he may have in view of the Magistrate's explanation on his rights.
- o If accused has any complaints, the Magistrate must fully record them

Accused persons usually have complaints against the police but may be afraid to advise the court of such in the presence of the police officers. Look out for the tell-tale signs and order any police officers whether in plain clothes or in uniform to leave the courtroom.

- o After accused has laid his complaints, give the State an opportunity to respond to them. Evaluate the complaints and instruct the State to investigate the complaints where necessary. Where accused was injured, you may order a medical examination and the submission of medical reports. The accused may also be advised to press criminal charges against any officials who may have abused him/her in any way. The instruction to investigate complaints raised by an accused



must be on record, must be followed up until the matter is properly dealt with.

- o Thereafter, the prosecutor reads the allegations to be accused and requests the court to place accused on remand.
- o Magistrate confirms if the accused has understood the charge.
- o Magistrate informs accused that he/she has right to challenge the authenticity and adequacy of state's allegations against him/her and after accused's submissions must proceed to make a ruling on that issue.
- o If application for placement on remand is granted, the prosecutor advises the court whether or not bail is opposed. If it is opposed the Magistrate advises the accused his right to be admitted to bail including that it is the obligation of the State to show compelling reasons why he/she must not be admitted to bail.
- o Magistrate must make a ruling on the application for bail.
- o Where bail has been granted, the bail amount is endorsed on the record cover and any conditions accompanying the grant of bail are endorsed in the inside flap of the record cover in clear, and unambiguous terms as ordered by the court.
- o The prosecutor applies for the adjournment of the case. That adjournment must not be more than fourteen (14) days except with the accused's informed consent.

Where accused is represented

- o Magistrate must satisfy himself that the Legal Practitioner has right of audience by requiring production of a valid practising certificate. On this, you may rely on prior knowledge due to previous appearances in that current year instead of asking the legal practitioner to produce the licence at every appearance.
- o The lawyer must assure the court, on record, that he/she has explained all rights to the accused and that the accused fully understands them. Counsel must also tell the court in detail any complaints that the accused may have.

Bail Hearing

- o Prosecutor formally advises the court that bail is opposed.
- o Regard being had to the requirement to show compelling reasons, the prosecutor addresses the court first and may lead any evidence.
- o Where evidence is led, the defence must be afforded an opportunity to cross examine.
- o The defence is then allowed to respond to the State's address and may also lead evidence.
- o The court makes a ruling with full reasons for any decision it makes at the end of submissions and/or leading of evidence.



Plea of guilty

In terms of Section 271(2) of C, P & E Act [Cap 9:07]

- o Magistrate must fill in the spaces provided on the face of the charge sheet, his/her names, rank and date of proceedings.
- o Prosecutor reads the charge to the accused.
- o Magistrate must satisfy himself/herself that the charge is properly drafted and is competent.
- o If it is, Magistrate ascertains if the accused understands the charge.
- o Accused is invited to personally tender his plea to the charge.

In terms of section 271(2) (a) and (b) of the Code

- o If accused pleads guilty, prosecutor advises the Magistrate to proceed in terms of section 271(2) (a) of the Code but the Magistrate is not obliged to proceed if he sees otherwise.
- o The Magistrate must be satisfied that the offence is one punishable by:
 - a non-custodial term; or
 - an Order of Community Service; or
 - a fine not above Level three (3) with an alternative prison term of not more than thirty (30) days.
- o If accused is unrepresented, the court summarily convicts him/her soon after the plea is tendered.
- o If accused is represented his/her lawyer confirms to the court that the plea is in accordance with the advice given to accused.
- o A lawyer does not tender plea on behalf of accused.
- o The reading of the state outline is not necessary.
- o After conviction, the accused is allowed to address the court in mitigation
- o Court gives brief reasons for sentence and sentences accused accordingly.

In terms of section 271 (2) (b) of the Code

- o Accused is invited to tender his plea personally to the charge.
- o The Prosecutor applies to the court for the adoption of the procedure.
- o Court must not question the prosecutor why the state intends the court to proceed in terms of that section. Prosecution may be in possession of damning information about accused which it cannot disclose before conviction.
- o Where accused is unrepresented, prosecutor reads out state outline and court ensures that the facts read out are fully understood by the accused.
- o If accused is represented, lawyer may advise the court that the facts have been explained to accused and that the court may dispense with the reading of state outline.



- o Where accused is unrepresented Magistrate must ensure by question and answer method, that accused admits to each essential element of the offence charged.
- o Magistrate must satisfy himself that accused does not give qualified answers in his admission of the essential elements. Answers must be unequivocal.
- o Where accused is represented, this is not necessary but the lawyer must again confirm that the essential elements of the offence were explained to accused and that the plea of guilty is an admission of the charge and its essential elements.
- o Thereafter court convicts the accused by pronouncing the verdict of guilty.
- o Prosecutor proceeds to advise the court on whether an accused is a first offender or has previous convictions.
- o Where accused is a first offender court proceeds to explain mitigation and its purpose to accused before inviting him/her to make submissions in mitigation.
- o The Prosecutor may also address the court in aggravation.
- o Where accused has previous convictions, the Prosecutor applies to court to produce the certificate of previous conviction(s).
- o Court describes the previous conviction to accused in full and asks him/her if he/she admits the previous conviction(s).
- o If accused admits, the previous conviction is then admitted by the court and is taken into consideration.
- o If accused denies the previous conviction, it is the obligation of the Prosecutor to prove that the previous conviction relates to the accused. This is done by calling evidence such as proof of finger prints.
- o Court then proceeds to detail its reasons for sentence and to pronounce sentence passed on accused.

Mandatory Sentences

- o Where accused is charged with an offence that carries a mandatory sentence in the absence of special circumstances, the Magistrate advises accused of that issue before accused is called to plead to the charge. The Magistrate also explains the meaning of special circumstances. Accused is advised that in the absence of special circumstances, the mandatory sentence shall be imposed. He/she is advised what that minimum mandatory sentence is.
- o After convicting the accused following the procedure explained above, the Magistrate again explains the implication of special circumstances to accused and invites accused to address the court on special circumstances.
- o The court's explanation of what is meant by special circumstances must be recorded.
- o Accused must be advised that he may lead evidence in support of or to prove any fact he seeks to rely on as a special circumstance.



- o Prosecution may mount a challenge to disprove that any issue submitted as a special circumstance does not suffice to be one if they so wish.
- o If the court rules that there are no special circumstances, it proceeds to impose the minimum mandatory sentence.
- o There is no need for ordinary mitigation to be taken because that would not change anything.
- o Where however the court finds special circumstances, it must allow the accused to make submissions in ordinary mitigation as in all other cases.
- o The Magistrate thereafter proceeds to deliver sentence together with the reasons thereof. Strive to avoid giving extempore reasons.
- o Where the sentence imposed is above three (3) months' imprisonment or Level four (4) fine but below imprisonment or Level Six fine and the proceedings were before a Magistrate of the rank of Provincial Magistrate and below record must be submitted for scrutiny within seven (7) calendar days of sentence.
- o Where sentence is above one-year imprisonment or Level six fine, proceedings must be submitted for review within seven (7) calendar days of sentence.

Subsequent Remands

- o Every subsequent remand must be on application.
- o Accused is allowed to challenge such application for further remand if he/she so wishes.
- o The application must have a legal basis for it to be granted.
- o All such applications must be fully recorded.
- o The remand date on record cover is only a court order, hence the proceedings from which it emanates must be fully captured in the record of proceedings.

Trial Preparation

- o Trial dates are usually set from the remand court.
- o The State applies for the matter to be remanded to a trial date. If accused is represented the lawyer will confirm if the date is by consent.
- o Court must enquire from the prosecutor and the defence if all preliminaries have been discharged.
- o Insist on service of all State papers. This can be done in court so that the service is recorded by the court. Where the State undertakes to serve the papers on the defence, the undertaking must again be recorded fully.
- o If accused is not represented, the Magistrate must advise accused of his right to Legal Counsel out of own means or advise accused how to apply for legal aid if same expresses indigence. Magistrate must tell accused where to take his application for legal assistance; address of Legal Aid Directorate in the district.



- The Magistrate must ensure that accused is personally given all State papers and endorse on the record receipt of such State papers. Fully explain the purpose of being given State papers.

At contested trial

- The various pleas available to an accused are provided for in section 180 of the Code.
- Where the accused excepts to the charge, the exception must be disposed of before proceeding to the trial.
- No evidence must be led during an exception proceeding. Parties must restrict selves to the face of the charge sheet and state outline.

Unrepresented Accused

Duty of Magistrate

- Must advise accused of his fair trial rights namely:
 - Right to lawyer and how it is exercised.
 - Depending on accused's attitude, allow reasonable time for the exercise of the right.
 - Confirm if State papers were served in time, avoid lightly proceeding on the basis of the so called consent to waive some of rights.
- Prosecutor reads the charge to the accused.
- Where offence attracts a minimum mandatory sentence, court advises of that issue and explains what mandatory sentences mean and the implications of mandatory sentence following conviction.
- The court then calls upon accused to answer to the charge and records plea at the back of the charge sheet, date the plea and sign it.
- All witnesses for both the defence and the state must be excused from court at this stage.
- State outline must be read into the record; ensure state outline does not contain prejudicial averments.
- State outline must enter record marked as Annexure 1 and not exhibit 1. (Exhibits relate to evidence but a State outline is not evidence)
- Invite accused to give a defence outline and advise him in this context of his right to silence.
- Fully explain what a defence outline entails. Unrepresented accused have a tendency of giving "a defence" instead of a defence outline
- Before State case opens, outline to accused in simple language the course to be taken during the proceedings. Advise accused of his/her duty to listen and follow the case; right to cross examine State witnesses and what it entails; and right to give evidence and call witnesses.

■ State Case Opens

- All witnesses to be sworn before giving evidence. For some reasons, religious or immaturity, a witness may be allowed to give evidence under affirmation.

- After examination-in-chief the accused is invited to cross examine the witness. Again fully re-explain what this entails.
- Magistrate to assist and direct accused on important points to cross-examine on and assist accused take his case to the witnesses.
- If State wishes to tender affidavits as exhibits that can only be done on (72) hours' notice.
- Waiver of notice can be done. Ordinary documents are produced on reasonable notice, depending on the circumstances of the case.
- After State case has opened, all documents and affidavits must be marked as "Exhibits" and numbered in chronological order. A list of admitted exhibits must again be made inside the front flap of the record cover.
- After witness has given evidence and has been cross-examined, the court must thank the witness, advise him/her that he/she is formally excused from further attendance and that the witness is entitled to reimbursement of witness expenses which they could have lawfully incurred.

State Case Closes

- If there is no evidence establishing a prima facie case at this stage, the Magistrate must discharge accused.
- The discharge can be done at the court's instance. Reasons for such decision must be given in writing.
- State has right of appeal against the decision to discharge at the close of State case.
- Accused does not have such right of appeal against being put to defence but can pursue a review of the decision.

Defence Case Opens

- Magistrate explains what this entails and that accused has the right to silence.
- Accused is advised to open his defence case by giving evidence if he/she so wishes but that he/she cannot call any witness to testify before he/she has done so unless by leave of court on application.
- Accused shall be allowed to exercise his/her right to call defence witnesses and be assisted by the court to do so.
- Magistrate must explain to the accused how to lead a witness in giving evidence-in-chief and re-examination where necessary.
- Magistrate to direct and assist the accused, bearing in mind the demands for impartiality and not descending into the arena.
- Prosecution has right to cross examine each defence witness after the witness' evidence in chief.
- Witness must be thanked for giving evidence and formally advised that he/she is excused from further attendance.
- Defence witnesses are not entitled to reimbursement of witness expenses.
- When accused no longer wishes to call any more witnesses, the defence case closes.



Closing submissions

- Closing submissions are not mandatory.
- Magistrate must however allow parties to make closing submissions where they wish to.
- There is no rule that the submissions must be in writing. Oral submissions must be encouraged to avoid unduly prolonging the proceedings.
- The State addresses the court first and the accused follows.
- The Magistrate to guide accused on the implication of closing submissions.

Judgment

- Magistrate is required to deliver written judgment covering all issues of the trial.
- Decision must account for all evidence received. None of it must be ignored.
- Decision must pronounce verdict of either guilty or not guilty.
- Thereafter the procedure described under the plea of guilty follows.

Special Circumstances

- Again, the procedure under the plea of guilty must be followed in relation to previous convictions, special circumstances, ordinary mitigation, where necessary, and reasons for sentence.

Execution of sentence

- Magistrate shall ensure that the sentence imposed is carried into execution. If it is a term of imprisonment, a warrant committing the convict to prison must be signed.
- If it is a fine, court can either afford the accused time to pay or require that the fine be paid immediately.
- Community service placement forms must be filed of record where community service has been imposed.

Right of appeal and review of proceedings

- It is good practice for the Magistrate to advise accused of right to appeal and the time frames involved or to advise accused of right to file a review within the specified timelines.

Automatic review/Scrutiny

- Magistrate to advise the accused that in the absence of an appeal, the record of proceedings shall be send for automatic review and/ or scrutiny within seven (7) calendar days and what the process of automatic review or scrutiny entails.
- Magistrate to ensure that record shall be send for automatic review or scrutiny within seven (7) calendar days of passing of sentence.
- The reviewing Judge or scrutinising Magistrate may seek clarification or comment on aspects of judgment or sentence from the Magistrate



who tried the case. These queries are contained in what are colloquially called “white letters”.

- o Each point raised by the reviewing Judge or scrutinising Regional Magistrate must be dealt with in the reply from the trial magistrate and responses should be sent promptly.

Represented Accused

- o The course followed is the same as in unrepresented accused, save that the court has no burden of explaining procedures.
- o The proceedings are excluded from automatic review and scrutiny.

Appeals

- o Appealing against the decision of a court is a constitutional right of every litigant.
- o The trial Magistrate is required to manage his record of proceedings until it is submitted to the Registrar of the court to which the appeal lies.
- o Magistrate must comment on the grounds of appeal promptly and ensure that a prepared copy of the record is submitted to the High Court within stipulated timelines. These timelines are dependent on the type of appeal noted.



STANDARD OPERATING PROCEDURES
FOR THE CIVIL COURT:
CHIEF MAGISTRATE'S DEPARTMENT

ANNEXURES



APPLICATION FOR AUTHORITY TO USE AN ELECTRONIC MAIL ADDRESS, WEBSITE, PORTAL OR OTHER INTERACTIVE ELECTRONIC LINK ORDER 1 Rule 6(1)

To: The Chief Magistrate

I,
apply for authority to use an electronic mail address, website, portal or other interactive electronic link for effecting notices, service of process, filings or other transactions with or through magistrate court.
The following are relevant particulars of electronic mail address, etc.:

.....
.....
.....

Declarations

I/We, the undersigned do hereby certify and undertake-

- (a) That no person other than the signatory/signatories or his or her authorised agents (whose names and other relevant particulars shall be notified in advance to the Clerk of Court concerned) shall use or have access to the electronic mail address, website, portal or other interactive electronic link.
- (b) That every precaution shall be taken to ensure against unauthorised use of the electronic mail address, website, portal or other interactive electronic link in connection with any legal proceedings;
- (c) To comply promptly with any direction referred to in Order 1 Rules 6(6) and (7).

Breach and terminology authority

Any violation of the terms of this authority shall be grounds for its immediate termination.

The Clerk of Court concerned Registrar shall determine, on reasonable grounds-

- (a) Whether the Applicant has violated any condition subject to which this authority is granted.
- (b) Whether the Applicant has not honoured his or her above declared undertakings;
- (c) What actions, if any, are necessary to remedy a breach of this authority, and the Applicant shall comply with pertinent instructions from the clerk.

Material changes

Any material changes to the particulars furnished by an Applicant in the particulars furnished below shall be promptly notified to the Clerk of Court, and in any event within seven days from the change having occurred or been made:

Signed:

Date:

Print or type name:.....

Title:.....

Firm/organisation:



Phone (land and/or cell).....Fax

E-mail:

Application received by the Clerk of theMagistrates Court
on.....

(Signature of Clerk)

Authority of Chief Magistrate:

Given under hand, at

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

subject to the following conditions:

.....
.....
.....
.....
.....



(GENERAL HEADINGS)

(1) IN ACTIONS

In the Magistrates' Court for the Province of

Held at.....No..... of 20

Between AB, Plaintiff
and
CD, Defendant,

(2) IN APPLICATIONS

In the Magistrates' Court for the Province of

Held at Noof 20

In the matter of application of –
Magistrates Court (Civil) Rules, 2019

AB, applicant
Against
CD, Respondent,

(3) IN GARNISHEE MATTERS

Held at.....No..... of 20

Between A B, Judgment Creditor
and
CD, Judgment Debtor
EF, Garnishee.



GENERAL CONCLUSIONS

(1) PROCESS FOR SERVICE

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

.....
Clerk of Court

(2) PROCESS FOR EXECUTION

And return as required by law what you have done by virtue hereof, for which shall be your warrant.

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

.....
Clerk of Court

By order of the court

.....
(Legal Practitioner for) Execution Creditor.

(3) NOTICE

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

Legal Practitioner for the

(4) SECURITY BOND

In witness whereof the said and at

This day of20.....

As witnesses:

1. (Signature and address)
.....
.....

2. (Signature and address)
.....
.....



(5) AGREEMENT

Witness our hand thisday.....20.....

Plaintiff or Plaintiff's Legal Practitioner

.....

Defendant or Defendant's Legal Practitioner

As witnesses:

1. (Signature and address)

.....

.....

2. (Signature and address)

.....

.....

(6) AFFIDAVIT

Sworn at, this day of20

Before me,

Signed

.....

Justice of the Peace
(or Commissioner of Oaths).



General Form of Notice of Application

(Headings)

TAKE notice that application will be made to this Court on
....., the day of20.....,
at am. for an order that *(state shortly terms of order applied for)*.

(Conclusion)



Summons Commencing Action

No.....

Issued by

Clerk of Court

MAGISTRATE’S COURT: PROVINCE OF

HELD AT

PLAINTIFF:
.....

TO: DEFENDANT:
.....

YOU ARE HEREBY SUMMONED that you do within days after the service of the Summons upon you, enter or cause to be entered with me and also Plaintiffs’ Legal Practitioner at the address specified herein an appearance (i.e. file a notice of intention to defend) to answer the claim of \$..... the Plaintiffs herein for \$..... and costs, particulars whereof are endorsed/attached hereto, see attached particulars.

TAKE NOTICE THAT:

- 1. In Default of your doing so you will be held to have admitted to said claim, and the Plaintiffs may proceed therein and judgment may be given against you in your absence; but that, on payment of the said claim and costs to me within the said time, judgment will not be given against you; and that if; before the expiration of the said time you so pay or lodge with me and the Plaintiffs Legal Practitioner a consent to judgment, you will save judgment charges.
- 2. If you allege any exception, defence or counter claim you must withindays after appearance deliver to me and the Plaintiffs Legal Practitioner a statement in writing of the nature and grounds thereof.

PARTICULARS:

Plaintiff’s Legal Practitioner’s address

Costs, if the action is undefended:
 Legal Practitioner’s Summons charges
 Court fees.
 Messenger’s fees on Re-issue _____
 SUB- TOTAL
 Legal Practitioner’s judgment charge _____
 TOTAL _____
 Messenger’s Fees



(Endorsement on back of summons)

CONSENT TO JUDGEMENT

I admit that I am liable to the Plaintiff as claimed in this summons (or in the amount of \$ and costs to date) and I consent to judgment accordingly.

Dated this day of20

.....
Defendant

APPEARANCE TO DEFEND TO: (1) THE CLERK OF COURT

(2) PLAINTIFF OR PLAINTIFF’S LEGAL PRACTITIONERS

Enter an appearance for the Defendant who intends to defend action.

Dated thisday of20

.....
Defendant or Defendant’s Legal Practitioner

Address of service:

.....
.....
.....

Postal address

.....
.....
.....

Note 1.

In terms of the Rules where Defendant wishes to consent to judgment or to enter an Appearance to Defend, a notice in the appropriate form shown above must be filed of record with the clerk of court and a copy served on the Plaintiff.

Note 2.

In terms of the Rules, the Plaintiff and the Defendant are required to give an address for service within a radius of fifteen kilometres of the court – house from which the summons is issued.



Particulars of Claim

(Note- These forms are examples only)

(1) The plaintiff’s claim is for the cost of goods sold and delivered.

Particulars:

2016 – 1st January:
 Balance of account for butcher’s meat to this date \$ C
 40 00

2016- 1st January to 31st March
 Butcher’s meat 40 00
 Total 80 00
 2016 – 1st February – paid 30 00
 Balance 50 00

With costs, if the action is undefended, as follows:

| | Summons | Judgment |
|------------------------------------|---------|-------------|
| | \$ C | \$ C |
| Legal Practitioner’s charges | 3 00 | 2 00 |
| Court fees | 2 00 | |
| Messengers fees | 95 | |
| Total | 5 95 | <u>2 00</u> |
| Total | 7 95 | |

(Conclusion)

(2) The plaintiff’s claim is against the defendant, as maker of a promissory note for fifty dollars, dated the 11st January, 2016, payable four months after this date to AB, of which the Plaintiff is now the holder, which note was, on the 1st May, 2016, duly presented to the Standard Bank, First Street, Harare, where the same was payable, and was dishonoured.

Particulars: \$ C
 Principal 50 00
 Interest *per centum* 2 00
 Amount due 52 00
 With costs, etc.,

(3) The Plaintiff’s claim is for money lent to the Defendant.

Particulars: \$ C
 1st January 2016: 100 00
 1st June 2016 Paid..... 50 00



| | |
|---|-------|
| Balance | 50 00 |
| Interest at <i>per centum</i> | 10 00 |
| Total | 60 00 |
| With costs, etc. | |

(4) The Plaintiff's claim is

(1) for arrears of rent due in respect of the defendant's monthly tenancy of 5 Third Street. Where the summons contains an order interdicting the removal of goods *pendent lie*, add- "add for confirmation of the order appearing on the face of this summons".

Particulars:

| | \$ | C |
|--|----|----|
| 1st January, 2016 – Rent due for the month of January, 2016 | 20 | 00 |
| 1st February, 2016 – Rent due for the month of February 2016 | 20 | 00 |
| 1st March, 2016 – rent due for the month of March 2016 | 20 | 00 |
| Total | 60 | 00 |
| 15th February, 2016 – Paid | 10 | 00 |
| Balance | 50 | 00 |
| With costs, etc, | | |

And (2) for ejectment,

Particulars

The plaintiff, on the 29th February, 2016, gave the defendant one-month notice to leave the said premises.

(5) The Plaintiff's claim for arrears of wage (salary) as aat dollars. cents perparticulars: -

| | \$ | C |
|--------------------------|-----|----|
| 2016 – January: | 100 | 00 |
| February 2016 Paid | 50 | 00 |
| Balance | 50 | 00 |
| 15th February Paid | 10 | 00 |
| Balance | 60 | 00 |
| With costs, etc. | | |

(6) The Plaintiff's claim is for the delivery to him of movable property or damages in lieu of the delivery thereof, and for damages for the past non-delivery thereof, and for confirmation of the order of court, dated the day of20 , interdicting the disposal of such a movable property.

Particulars:

1. On the 18th March 2016, the Plaintiff lent to the Defendant a mahogany table and three bentwood chairs, value..... fifty- four dollars, to be returned on demand.
2. On the 27th August, 2016, the Plaintiff demanded the return of the said table and chairs.
3. The Defendant refused, and still refuses, to return the said table and chairs.
4. The reasonable hire of such table and chairs is one dollar a month.



Whereof the Plaintiff claims.

- (1) Return of the said table chairs;
- (2) Damages-

| | |
|-------------------------------|-------|
| | \$ C |
| in addition to delivery | 3 00 |
| in lieu of delivery | 54 00 |
| with costs etc | |

- (7) The Plaintiff’s claim is for damages for personal injuries caused by the defendant’s negligence.

Particulars:

- 1. On the 14th October, 2016, at about 10. am, the Plaintiff was crossing Main Street, from North to South.
- 2. At the same time, the Defendant was driving a motor car along the said street from North to South.
- 3. The Defendant, by negligent driving, struck the Plaintiff and threw him to the ground, inflicting the following injuries:- left arm broken, three ribs broken, face severely cut, coat torn.
- 4. The Plaintiff, by reason of the above injuries was unable to pursue his occupation as a miner for seven weeks and incurred the following damages-

| | |
|--------------------------------|--------|
| | \$ C |
| Medical attendances, etc | 34 00 |
| Loss of earnings | 120 00 |
| Damage to coat | 3 00 |
| Pain and suffering | 500 00 |
| Total | 657 35 |

- 5. The Plaintiff admits that he is indebted to the defendant in the sum of two hundred dollars as damages for breach of contract to deliver to the Defendant one thousand tonnes of coal, entered into between the parties verbally on the 12th September, 2016.

| | |
|----------------------|--------|
| | \$ C |
| And sets off - | 200 00 |
| Balance | 457 35 |

- 6. In order to bring the claim within the jurisdiction of the court, the Plaintiff abandons fifty-seven dollars thirty – five cents and claims four hundred dollars, with costs, etc.

- (8) The Plaintiff’s claim is as cessionary of claim by JK, of 444 Station Street, Gweru, Legal Practitioners, for professional services rendered, ceded to the Plaintiff by the said JK in writing, dated the 11th August, 2016. (Attach the deed of cession and proof of payment.)

Particulars:

1st and 8th March 2016
 Agreed for defence is S v CD, 42 dollars, with costs, etc.



Conclusions to Particulars of Claim

.....
Plaintiff or Plaintiff's Legal Practitioner.

Address:

.....

.....

Postal address.....

.....

.....



Certificate of service

(Heading)

I....., the legal practitioner of record/ an employee of the legal practitioner of record for the hereby certify that at

 hereby certify that at
 (State precisely where service was effected) on the day of20
at (time), I served the following documentsby

 (describing method of service).

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

Signature



Notice under Order 7, Rule 14, for Service by Notice in Newspaper

(Heading)

To:
CD of

TAKE notice that summons have been issued against you in this court by AB, of
.....

For the sum of \$..... for goods sold and delivered (or as the case may be),
and that an order has been made that the publication of notice of such summons shall be deemed
to be and sufficient service of summons on you.

You are required to enter an appearance to the summons on or before
the day of, 20

And if you do not do so, judgment may be entered against you in your absence.

(Conclusion No. (1) in Form CIV 2)



Interdict in terms of Section 38 of the Act

Take notice that-

You the defendant and all other persons are hereby interdicted from removing or causing or suffering to be removed of the furniture or effects in or the property described in the particulars of the claim here on the property described in the particulars of the claim entered here in which are subjected to the Plaintiff's hypothec to rent until an order relating thereto has been made by the court.



Request for Default Judgment

(Heading)

The Plaintiff hereby applies that –

- (1) The Defendant having been duly served;
- (2) The time for appearance by the Defendant having expired; and
- (3) The Defendant not having entered an appearance to defend;

Judgment may be entered against the defendant as claimed in the summons, together with costs

\$

For interests at percent, from the date of summons.

Dated thisday of20

.....

Plaintiff or Plaintiff’s Legal Practitioner.



Notice of withdrawal

(Heading)

TAKE notice that the above – named Plaintiff hereby withdraws the above mentioned action and tenders costs.

(Conclusion)



Notice of Application for Summary Judgment

(Heading)

TAKE notice that the application will be made to this court on the
day of20, atam/pm, for leave to enter
judgment against you in this action of \$..... and costs.

And further take notice that the affidavit of, of
which a copy is served herewith, will then be used in support of such application, and that you
may reply thereto by affidavit.

(Conclusion)



(Heading)

I,

Address:
.....
.....
.....

Occupation:

Make oath and say as follows: -

1. I am the plaintiff in this action (or, the fact herein states are within my own Knowledge), and I am duly authorized to make this affidavit.
2. The defendant is to the plaintiff in the sum of \$..... on the grounds stated in the summons.
3. I verily believe that the defendant has not a *bona fide* defence to this action and that appearance has been entered solely for the purpose of delay.

(Conclusion)



Affidavit in Support of Application for Summary Judgment

(Heading)

I,

Address:
.....

Occupation:
.....

Make oath and say as follows: -

1. I am the landlord (or, the agent of the landlord, naming him) of premises situate and being (describe the premises).
2. A B....., of (describe the tenant) is justly and truly indebted to me (or, to my said principal) in the sum of \$.....
.....for rent of the said premises, accrued from the day of20
3. The said sum of\$became due and payable upon the day of 20
4. The said rent has been demanded from the said A.....B..... on the..... day of20 but has not yet been paid, or.
5. I am informed and believe that the said A..... B..... is about to remove certain movable, now upon the said premises, from such premises in order to defeat and avoid the payment of the said rent.

(Conclusion)

Security for rent attachment under section 34 of the Act
(Heading)

WHEREAS X..... Y....., of
(describe the landlord), has applied for the issue of an order to seize and arrest the moveable property in or upon..... (describe the leased premises) for the sum of \$..... for rent due by A..... B..... of (describes the tenant) and \$..... for costs:

NOW, THEREFORE, that X.....Y and P..... Q.....of (describe the surety), as surety and co-principal debtor for him the said X Y hereby undertake and bind themselves jointly and severally that the said X.....Y.....and P..... Q..... or either of them shall pay, satisfy and make good to the said AB..... or whom else it may concern, all damage, costs and charges which he or they may sustain by reason of the seizure or arrest of the said immovable property in case the said seizure or arrest is set aside.

(Conclusion)



Order for rent attachment Section 34 of the Act

It is ordered: -

1. That the Messenger of Court do seize and arrest so much of the (describe the moveable) in the (house, store, or as the case may be), situate and being No. (describe the premises), as shall be sufficient to satisfy the sum of \$ rent and \$.....costs.

(Conclusion)



Consent to sale of attached goods

(Heading)

I, A..... B....., of the above Respondent, hereby admits that the property attached in the above matter is a hypothec to the above applicant to the extent of \$....., and I consent to the sale of the said property in satisfaction of the said amount of \$..... plus, costs and messenger's fees.

Dated at thisday of20.....

.....

Respondent

As witness:

.....



Forms as to Inspection and Production of Documents

(1) Schedule of documents

The following intends to use the following documents at the trial of this action: -

| Date of document | Description of document |
|------------------|-------------------------|
| | |
| | |

2. Notice to deliver Schedule of Documents

TAKE notice that the requires you within (7) seven days after receiving this notice to deliver a schedule specifying the books and documents in your possession or under your control which you intend to use in the above action.

(3) Notice to produce Documents for Inspection

TAKE notice that the requires you to produce for his or her inspection at your office onatam, The documents specified in your schedule of Documents or, the accounts and documents upon which the action is founded).

4). Notice to produce (General Form)

TAKE notice that you are hereby required to produce and show to the court that the trial of this action, all books and documents disclosed in your schedule of documents, and also (specify documents): -

Note: - The foregoing notices are to be headed in the action and dated and signed by the party or his legal practitioner, and are to be addressed to the party or his legal practitioner, if he has one.



Certificate of record

FORM CIV 18

(Heading)

I....., Clerk of the Court (or Shorthand Writer of this court), do hereby certify and declare that the foregoing record is a true record of the proceedings in this action and of all evidence received by the said court.

Dated atthis.....day of20.....

Clerk of Court
(Or Shorthand Writer)



(Heading)

IT IS ORDERED: -

1. That a rule nisi be, and it is hereby granted calling upon
.....

(Respondent), of (Respondent’s address,

to show cause, if any, to this court on the day of.....20.....

at.....in the noon, or soon thereafter as he or she can be heard, why..... shall not be interdicted from..... (set out the act from which Respondent or any other person is restrained) pending the decision of an action to be brought by the applicant against the said (Respondent) for (set out the nature of the claim)

2. That the said action be commenced within..... days.

3. That this rule operates as an interim interdict.

Dated at this day of20.....

By order of the Court.

.....
Clerk of Court

.....
Applicant’s Legal Practitioner

Address.....
.....
.....



Order for arrest of person

(Heading)

IT IS ORDERED; -

1. That the Messenger of the Court do take.....
.....

(Respondent) and safely keep him or her and cause him or her to appear before this court
atO'clock in the..... noon
on the day of.....20.....then and there to show cause
why he or she should not be detained to abide by the judgement of this court in an action for the
sum of \$..... and to be instituted against him or her by the applicant.

2. That the said action be instituted within 48 hours from the date of this order.

.....
Clerk of Court

.....
Applicant's Legal Practitioner

Address.....
.....
.....



Warrant for fine or arrest of a witness in default

(Heading)

To the Messenger of the Court and to the Officer-in-charge of the Prison.

WHEREAS AB of....., has been duly subpoenaed to give evidence or, to produce certain books, papers or documents, as the case may be, in the above matter before this court at am.

On the..... day of.....20....., and has made default;

And whereas this court has imposed on the said AB for his said default a fine of \$..... dollars and for non-payment has committed him or her to prison at for a period of

This is, therefore, to authorise and require you, the said Messenger of Court, to take the body of the said AB, and, unless he or she shall pay you the said sum of dollars, to deliver him or her to the officer-in-charge of the prison at..... together with this warrant, there to be safely kept until he or she shall have paid the said sum of until the expiration of the said sum of, from the day on which the said AB shall be received into or retained in the said prison by virtue of this warrant, whichever of the two shall first happens, or until the said AB shall be otherwise legally discharged.

And this is to command you, the said officer-in-charge of the said prison to receive and safely keep the said AB as foresaid.

(Conclusion)



Warrant for apprehension of a witness in default

FORM CIV22

(Heading)

To the Messenger of Court

WHEREAS A B....., of,
has been duly subpoenaed to give evidence (or, to produce certain books, papers or documents,
as the case may be) in the above matter before this court atam on
the.....day of20....., and has made default.

This is therefore to authorise and require you to take body of the said A....., B.....
and have him or her before the court atam on the
day of 20.....

Then and there to give his or her evidence and to be otherwise dealt with according to law.



Security on attachment or interdict

FORM CIV 23

(Heading)

WHEREAS A.....B.....
.....of.....C.....
D.....of.....
(or, an arrest or interdict against the goods of C.....
D.....at.....), and the court has
fixed the security to be given by the said AB at the sum of \$.....

NOW, THEREFORE, the said A.....B.....
and E.....F....., of.....
.....
as surety and co-principal debtor for him or her the said A.....B.....

hereby undertake and bind themselves jointly and severally to answer any claim for damages to a sum not exceeding the said sum of \$.....in case the said arrest (or, interdict may be set aside or shall be reversed on appeal.

(Conclusion)



Subpoena

FORM CIV24

(Heading)

To: -

- 1) A.....B.....,
of.....
- 2) C.....D.....,
of.....
- 3) E.....F.....
of.....
- 4) G.....H.....
of.....

You are hereby required to appear in person before this court at.....
on the.....day of.....20....., at the hour
of..... In the noon, and so from day to day until this action is
tried, to give evidence in this action on behalf of the.....
(WHERE documents are required to be produced, add)

- 1. And to bring with you and then produce to the court the several documents in the list hereunder:-

(Conclusion)

- 2. List of documents to be produced-

| DATE | DESCRIPTION | ORIGINAL COPY |
|------|-------------|---------------|
| | | |
| | | |



SECURITY FOR STAY OF EXECUTION

FORM CIV 25

(Heading)

WHEREAS the said A..... B.....by judgement
of this court on the day of20.....
recovered against the said C..... D..... the sum for
\$....., together with the sum of \$.....for costs:

AND WHEREAS the said C..... D.....
has applied to the court for stay of execution pending Appeal (or, pending the hearing of an
application to review and reverse the said judgment) and court had directed that execution be
stayed accordingly, subject to the said

C..... D..... giving security withindays:

NOW, THEREFORE, the said C.....D.....E.....F.....,
of as surety and co-principal debtor for him or her, the said C.....

D.....,
hereby undertake and bind themselves, jointly and severally to satisfy the said judgement
and any further liability which may arise by way of damages or otherwise by reason of such
suspension, so far such judgement not be reversed or varied on such appeal (or, review).

(Conclusion)



Security when execution is allowed pending appeal

FORM CIV 26

(Heading)

WHEREAS the said A..... B.....on the
.....day of.....20..... recovered by judgement of this court
against the said C..... D.....the sum of \$....., together
with the sum of \$.....for costs;

AND WHEREAS the said court has directed judgement notwithstanding the said C.....
D.....has noted an appeal against the same, to be carried into execution upon security
being given for restitution.

NOW, THEREFORE, the said A.....B.....and L.....M.....as surety
and co-principal debtor for him/her the said A..... B and L.....
M

hereby undertake and bind themselves jointly and severally to refund and make restitution of the
above several sums of \$ and \$ should be judgement
of the said court be reversed, and further severally to conform to and execute such judgement,
order or decree as shall be given and pronounced upon or in respect of such appeal.

(Conclusion)



Warrant of ejection and execution against property

FORM CIV 27

(Heading)

TO: The Messenger of Court
Amount to be *levied*
(With costs of ejection and execution)

| | |
|--|--|
| Judgement debt | |
| Cost | |
| Costs of issuing warrant | |
| Cost of appeal. | |
| Sub-total | |
| Messenger's fees for ejection Execution | |
| Total | |

WHEREAS in this section and on the day of20..... the court granted judgement in favour of the Plaintiff against the said defendant-

- a) For the ejection of the said Defendant from.....
.....and
- b) Authorising the said Plaintiff to recover from the said Defendant the several sums set out in the margin hereof, amounting in all to the sum of \$.....

This is therefore to authorise and require you to put the said Plaintiff in possession of the said premises by removing the from the said Defendant and to cause to be levied from the property of the said Defendant the said sums set out in the margin hereof together with your costs of this ejection and execution and to pay the said sum to the said Plaintiff, for which this shall be your warrant.

(Conclusion)

Note-

- 1) If the judgement debtor pays the amounts specified in the margin hereof with the messenger's charges of \$.....within half an hour after the entry of the messenger, he will not be required to pay any further costs of execution.
 - 2) This execution may be paid out before sale, subject to the payment of the messenger's fees and charges of execution, which may be required to be taxed.
 - 3) The only immovable property upon which this warrant may be executed is (set out is situation and nature sufficiently to enable it to be identified).
 - 4) Security for restitution to be required it is dispensed with the judgment debtor or Notice of Attachment is given to him personally.
-



Warrant of delivery and execution against property

FORM CIV 28

(Heading)

TO: The Messenger of Court
 Amounts to be levied
 (With costs of ejection and execution)

| | |
|--|--|
| Judgement debt | |
| Cost | |
| Costs of issuing warrant | |
| Cost of appeal. | |
| Sub-total | |
| Messenger’s fees for ejection Execution | |
| Total | |

WHEREAS in this section and on the..... day of20.....
 the court granted judgement in favour of the Plaintiff against the said Defendant-

a) For the ejection of the said Defendant from.....
and

b) Authorising the said Plaintiff to recover from the said Defendant the several sums set out
 in the margin hereof, amounting in all to the sum of \$.....

This is therefore to authorise and require you to put the said Plaintiff in possession of the said premises by removing the from the said Defendant and to cause to be levied from the property of the said Defendant the said sums set out in the margin hereof together with your costs of this ejection and execution, and to pay the said sum to the said Plaintiff, for which this shall be your warrant.

(Conclusion)

Note-

1. If the judgement debtor pays the amounts specified in the margin hereof with the messenger’s charges of \$.....within half an hour after the entry of the messenger, he will not be required to pay any further costs of execution.
2. This execution may be paid out before sale, subject to the payment of the messenger’s fees and charges of execution, which may be required to be taxed.
3. The only immovable property upon which this warrant may be executed is (set out its situation and nature sufficiently to enable it to be identified).
4. Security for restitution to be required, unless it is dispensed with the judgment debtor or notice of attachment is given to him personally.



Warrant of execution against property

FORM CIV 29

(Heading)

TO: The Messenger of Court
Amounts to be levied:

WHEREAS in this section the said plaintiff on theday.....
of.....20.....by the judgement of the court recovered against the said Defendant
the several sums out in margin hereof, amounting in all to the sum of \$.....
(with costs of execution)

| | |
|--|--|
| Judgement debt | |
| Cost | |
| Costs of issuing warrant | |
| Cost of appeal | |
| Messenger's fees for ejection Execution | |
| Total | |

This is therefore to authorise and require you to that you cause to be levied from the property
of the said Defendant the said sums set out in the margin hereof together with your costs of this
execution and pay the said sum to the Plaintiff for which this shall be your warrant.

(Conclusion)

Note-

- 1) If the judgement debtor pays the amounts specified in the margin hereof with the messenger's charges of \$.....within half an hour after the entry of the messenger, he will not be required to pay any further costs of execution.
- 2) This execution may be paid out before sale, subject to the payment of the messenger's fees and charges of execution, which may be required to be taxed.
- 3) The only immovable property upon which this warrant may be executes is (set out its situation and nature sufficiently to enable it to be identified.
- 4) Security for restitution to be required unless it is dispensed with by the judgment debtor or notice of attachment is given to him personally.



Notice of removal

FORM CIV 29A

Date.....20.....

TO: Mr/Mrs/Miss.....
In the matter of
(Judgement creditor)

And

(Judgement debtor)

Case No.....of 20.....

This is to advise you that in respect of the above case, a warrant of execution/ejectment/delivery has been issued at the instance of the judgement creditor, represented by Legal Practitioner: Messrs.....
.....
.....

Execution of this warrant will take place at (Place) on the
.....20..... (date)

It is in your own interest to be present on the above date, especially in the case of eviction, to enable you to take possession of your personal belongings.
Should you fail to be present we shall proceed to execute the warrant in your absence.

The amount required on the warrant is \$.....to be paid in cash to
The Messenger of Court, at the latest by the day before execution.

Deputy Court Messenger

Notice of attachment in execution

FORM CIV 30

(Heading)

To: C.....D....., Judgement Debtor

TAKE notice that I have this day seized and laid under judicial attachment the articles comprised in the above inventory in pursuance of warrant to them directed under the hand of the Clerk of Court for the province ofwhereby I am required to cause to be levied and raise of your property in this province the sum of \$.....and \$.....cost, recovered against you by the judgement of the said court in this action, and also for any charged in and about the said warrant.

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

Messenger of Court



Security bond on attachment

FORM CIV31

(Heading)

WHEREAS the said AB on theday of
last, by judgement of this court recovered against the said CD the sum of \$.....,
together with the sum of \$.....for costs, whereas by virtue of a certain
warrant under the hand of the Clerk of the said Court bearing date, etc directed to EF,
Messenger of the said Court, the said EF has seized and laid under attachment in respect
of the said judgement and in respect of the execution thereof the under mentioned articles,
viz.....

(Conclusion)



Interpleader Summons

FORM CIV 32

(Heading)

WHEREASof.....has
interpleaded in this court as to the subject matter following –

(State subject matter)

which is advisedly claimed by..... of.....and
.....of.....hereinafter called the claimants:

Summon the said claimants that they severally appear before this court, to be held at

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

at.....o'clock noon, and that they do then severally state the nature and
particulars of their several claims and whether they will maintain or relinquish the same

(Conclusion)



Interpleader Summons

FORM CIV 33

(Heading)

TO: AB *(describing the execution creditor)* and CD *(describing the claimant)*

You are hereby summoned to appear before this court on theday of20.....at o'clock in thenoon, to have it determined and declared whether certain movable property to wit..... attached on theday.....of.....,20.....,by the Messenger of the Court by virtue of a warrant of execution issued by this court on theday of20....., by the messenger of the court by virtue of a warrant of execution issued by this court on the day of20....., in the action in which you, the said B, obtained judgement in the sum of \$.....against EF *(describing the execution debtor)*. And which said property is claimed by you, the said CD as being your property, is or is not your property.

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

.....
Clerk of Court



(Heading)

WHEREAS the said plaintiff on the day of.....
20..... recovered judgment in this court against the said defendant for the sum of \$
..... together with the sum of \$ for costs.

And whereas under the said judgment execution has been issued and property has been attached:

NOW, THEREFORE, the said plaintiff and LM, of
..... As surety for him or her the said plaintiff, hereby severally
undertake and bind themselves jointly and severally to the said judgment debtor that if the said
judgment is hereafter reversed they will pay to the said judgment debtor such amount as may be
ascertained to be the damage caused to him or her by the said judgment and execution, but not
exceeding twice the gross proceeds of the sale of such goods in execution.

(Conclusion)

Note:- Where the security is for the repayment of money attached by garnishee proceedings, a
similar form should be used, the words, “refund and make restitution of the gross
amount
paid by the garnishee” being substituted for the words “pay to the said judgment debtor
such amount, etc”



(Heading)

TO: CD (Describing the judgement debtor)

I. NOTICE TO DEFENDANT

You, the Defendant, are called upon to pay EF, (describing the judgement creditor) the sum of \$....., with interest thereon at the rate ofper cent per annum from the date of payment. You are required to pay this sum by virtue of a judgement obtained against you in the Magistrate’s Court at.....on the..... day of.....20....., under which you were ordered to pay the sum of You were also ordered to pay the costs of that case, which amount to.....

II. WHAT DEFENDANT MUST DO

If you fail to pay the sum specified above, you must appear before the Magistrates Court

at..... on theday of.....20.....atam to explain why you have no paid it and to show cause why an order for your imprisonment should not be made on account of your failure to pay. You should bring with you evidence of your financial position, and it will be in your interest to give the court evidence of-

- a) Your income from wages, salary or other earnings and any other income you may receive from any other source (you should bring pay slip or other proof of your income);
- b) Your expenses for yourself and any dependants (bring documentary proof such as rent receipts, water and light accounts for school fees insurance policies) etc;
- c) Any other liabilities to which you may be subjected.
The court will conduct an inquiry into your financial position and, depending on the circumstances, it may not commit you to prison but instead give you further time to pay the sum due to direct you to pay it in instalments over a specified period

You are at liberty to approach the judgement creditor before the date of the hearing and to make an offer of instalments of the sum due.

III. FAILURE TO ATTEND

Unless you pay the judgement creditor the sum specified in Section 1 above. Unless the judgement creditor accepts an offer of settlement which you made to him you must appear before the Magistrate’s Court on the date and at the time specified above in Section 11. If you do not do so, a warrant for your arrest may be issued and you may be committed to prison.

(Conclusion)



Warrant for civil imprisonment

Form CIV 36

(Heading)

TO: The Messenger of Court and to the Officer-in-Charge of the Prison at.....

These are to command you, the said Messenger of the Court, to take CD, of *(describe as in form Form CIV 35)*, and deliver him to the Officer-in-Charge of the said Prison, together with this warrant, there to be safely kept until he shall have paid to EF, of *(describe as in form Form CIV 35)*, the sum of \$.....(parcel of the sum of \$.....), which they said EF recovered for his debt and costs by judgement of this court, bearing the date of theday of.....20.....or until the expiration of.....from that day on which the said CD shall be received into or retained in the said prison by virtue of this warrant, whichever of the two shall first happens, or until the said CD shall be otherwise legally discharged.

(Conclusion)

Date decree made.....

Date last payment made.....



Affidavit in support of application for garnishee order

FORM CIV37

(Heading)

A.....Bof..... duly sworn states.

1. That he or she is the above-mentioned judgment creditor (or, that he is duly authorised by the above judgment creditor to act for him in this matter).
2. The judgment creditor has obtained judgment against the judgment debtor in this court (or, in the Magistrate’s Court for the province of a certified copy of which judgment hereto annexed marked (‘A’) on theday of.....20..... in an action numbered..... for the sum of \$..... and costs amounting to \$.....
3. The said judgement is still unsatisfied to the amount of \$
4. The garnishee resides (or carries on business address..... or, is employed as). at No..... Street..... within the province of this court, and is indebted to the judgment debtor in the sum of \$..... (or in an amount to the petitioner unknown,) for (set out the cause of debt) (not) being for salary and wages.
5. The judgment debtor will, after the execution of the order herein sought, have a sufficient income i.e. \$..... per month arising from (set out the source of such income) to maintain himself and those dependent upon him i.e. (set out the numbers and relationship to the judgment debtor of his dependents).

(Conclusion)



Garnishee order

FORM CIV 38

(Heading)

WHEREAS it has been made to appear to the above court that the garnishee is indebted to the judgment debtor and that the debt is now due and is not for salary wages (or, that the debt is now due and to maintain himself and those dependent upon him).

IT IS ORDERED:-

That all debts owing by the garnishee to the judgment debtor to an amount not exceeding \$..... be attached to answer a judgment recovered against the judgment debtor by the judgment creditor in the court on the day of20..... for the sum of \$..... of which judgment the sum of \$..... remains due and unpaid.

That the garnishee does pay to the Messenger of this Court the said sum of \$..... together with \$..... the costs hereof (but not exceeding in all the sum of \$.....) out of this said debt to the judgment debtor or failing such payment that the garnishee appear before this court on the day of20..... at..... o'clock innoon, then and there to show cause why he/she could not pay the same.

Dated at this day of.....20.....at..... hours..... minutes in the..... noon.

By order of the court

.....
Clerk of Court

.....
Legal Practitioner for Judgment Creditor

TO: The above-named Garnishee:

If the debt due by you to the above-named judgment debtor was not owing both at the day and hour above-mentioned and at the time when this order was served on you, or if debt is alleged to be in respect of future salary or wages and such debt will not become due or is subject to any set off or lien or some other person, you should appear at the court and prove the facts. If you do not appear, you may be compelled to pay the debt twice over.

TO: the above-named judgment Debtor.

If the judgment against you has been satisfied or is for any reason no longer operative against you, or if the debt is due to you or become due to you for salary or wages and its attachment will not leave you with sufficient means to enable you to maintain yourself and those dependent on you, you should appear at the court and prove the facts, but you cannot be heard on any other point

(Conclusion)



Agreement not to appeal

FORM CIV 39

(Heading)

Weand..... (the respective legal practitioners of the above-named Plaintiff and Defendant, do hereby agree under the provisions of Section 40 of the Magistrates Court Act [Chapter 7.10] that the decisions of the above named court in the above –named action shall be final.

(Conclusion)



Notice of abandonment of claim, et cetera

FORM CIV 40

(Heading)

TAKE notice that the Plaintiff (or Defendant) hereby abandons the under-mentioned claim (or, objection exception, defence, as the case may be), set up by him in his summons (or plea, et cetera, as the case may be)

(Conclusion)



TO.....
of

(Heading)

Greeting

Under and by virtue of the authority vested in me by section 68 of the Magistrates Court Act [Chapter 7:10] I do hereby commit to you full power and authority as a commissioner of this court to examine G.....H..... of..... (and such other witnesses as either of the parties to this suit may desire to call) and to take the evidence on oath of the said witness(es) in the above suit now pending in this court.

Given under my hand atthis day of20.

.....
Magistrate

(Conclusion)



Instruction for immediate service of process

FORM CIV 41 A

In the matter of(Plaintiff/Applicant)

And

..... (Defendant/Respondent)

Case No.....of 20.....

It is necessary to serve the following process immediately.....

..... (state nature of process)

In consideration for immediate service or attempted service of the above process. I/We undertake to pay the messenger of the court at the appropriate rates per kilometre specified in or calculated in accordance with paragraph 13 or 14, as the case may be, of Table B of the Second Schedule to the Magistrates Court (Civil) Rules, 2019.

Signature.....

Date

Capacity in which signatory signs this form (*i.e. as Plaintiff, Applicant, Defendant, Respondent or Legal Practitioner for a party*).....

(Conclusion)



Notification by Messenger

FORM CIV 42

| | | | | | |
|--|---------------|-------------------------|----------------------|------------------------|-----------------|
| Messenger | | Book number | | Advise | |
| Date and time taken | | Issuing court | | Case Number | |
| Plaintiff | | | | Defendant | |
| Summons | Summons CI | Warrant of execution | Warrant of arrest | Others | Charges \$ c |
| Address of service of execution of attempt | | | | Km at 14c Km at 19c | |

*For the rates at which the messenger is currently allowed to charge for distance travelled, see Paragraph 3 and 14 of Table B of the Second Schedule

| | | | | Charges \$ C |
|---|--|--|--|-----------------|
| Rule 5(2)(a) served on – of Order 7 | (a) The person to be served (b) authorised agent (named and described below) | | | |
| Rules 6 and 9 of order 7 served by affixing to outer principal door after unsuccessful diligent search | A. Place of residence /business B. <i>domicilium citandi</i> | | | |
| Rules-5(2) (b) served on a responsible person (named and described below) | A. At defendant’s residence. | | | |
| | B. at defendant’s place of business/employment. | | | |
| | C. at defendant’s <i>domicilium citandi</i> | | | |
| Rule 5(2)(d) (1) of order 7 served at local office of corporation/company | | | | |
| Rule 8 of order 7 served by registered post (delivery card completed and attached) | | | | |
| Rule 14 of order 7 served in terms of court order (see remarks) | | | | |
| Attempt service execution (see remarks): | | | | |
| Execution withdrawn/stopped/ deemed suspended | | | | |
| Warrant for delivery ejectment executed. | | | | |



| | | | | |
|---|---|---------------------------------------|-------|--|
| Warrant of Arrest executed | A Paid in full B Debtor lodged in prison | | | |
| Warrant of attachment enforced. Debtor present/absent Goods attached / inventoried and valued. | | | | |
| Not removed/removed for sale..... | | | | |
| Warrant of attachment executed. –Debtor seen no property pointed out seen. <i>Nulla bona</i> | | | | |
| Remarks | Carriage | | | |
| | Advertising | | | |
| | Locksmith | | | |
| | Notice | | | |
| | Inventories | | | |
| | Security | | | |
| | Commission | | | |
| Plaintiff’s Legal Practitioners | Deputy Messenger | Escort Postage Other specify | | |
| You may require these charges to be taxed before payment. | | Certified and true correct return | Total | |



Notice of Opposition

FORM CIV 43

IN THE MAGISTRATES COURT

CASE NO. MC.....

HELD AT

IN THE MATTER BETWEEN

..... APPLICANT

AND

..... RESPONDENT

NOTICE OF OPPOSITION

The application was served on the Respondent on the day of20

.....

Applicant/Applicant's Legal Practitioner

Respondent's service address

(Which must be a physical address within a radius of 15 kilometres from the court house in which the notice is to be filed)

TO: The Clerk of Court

Magistrate Court

AND TO

Respondent/Respondent's Legal practitioners.



IN THE MAINTENANCE COURT

CASE NO.....

IN THE MAGISTRATE COURT OF

.....

Held at

SUMMONS

SECTION 4(1) MAINTENANCE ACT [CHAPTER 5:09]

To: All and each member of the police force—

In the matter between.....

Applicant

And

.....

Respondent

ADDRESS:

WHEREAS a complaint has been made on oath that the
.....is legally liable to maintain
.....

AND WHEREAS it is alleged that he has failed or neglected to provide reasonable maintenance for the aforesaid person:

THIS THEREFORE is to require you to summon the said.....

.....

..... in terms of the Maintenance Act [Chapter 5:09], that he appear before the Maintenance Court of the MAGISTRATE’S COURT HELD at

.....on the day of
.....20.....at..... o’clock in

the noon, with any witness, to

Show cause why he should not provide reasonable maintenance for the aforesaid person(s): and he should produce his EC Number or payslip.

AND WARN the said

.....that should he fail to Appear, the court may proceed to inquire into the complaint, and any order that may made be shall be binding on him.



I hereby certify that I have this day of, 20.....
Serve a true copy of the within-mentioned summons on the within-mentioned

.....
.....
.....

- (1) by handing it to him personally,
- (2) by handing it to
(employer, relative etc.) at

.....
And have fully explained
(a) to him,
(b) the said

.....
the exigencies thereof.
AND have obtained from him personally his payslip/E.C. No.....
Rank:..... No.....
Signature.....

THE EFFECT OF A DIRECTION

- (1) It has precedence over any other order of court requiring payments to be made from the salary, wages, remuneration or allowances.
- (2) No part of salary, wages, remuneration or allowances due to the responsible person by the employer shall be applied to the settlement of any debt including set –off or in accordance with any agreement expressed or implied or any arrangement or instruction of any kind whatsoever until payments due in terms of the direction have been made. THIS DOES NOT RELIEVE YOU OF YOUR OBLIGATION AS EMPLOYER TO WITHHOLD AND MAKE PAYMENTS OF EMPLOYEES’ TAX IN ACCORDANCE WITH THE PROVISIONS OF SECTION 12 OF THE INCOME TAX ACT, 1967.
- (3) Should the responsible person be discharged from or terminate his employment with you, you are required to notify me of the fact in writing within seven days. Failure to give such notification is a criminal offence in terms of section 20(3) of the Act and carries a punishment of a fine not exceeding \$100 or to imprisonment for a period not exceeding six month or both such fine and imprisonment.
- (4) Any person who fails to comply with any direction made against him commits an offence against section 23 of the Act and is liable to a fine not exceeding \$100 or in default of payment of imprisonment for a period not exceeding one year or to both such fine and imprisonment.
- (5) It has effect of a garnishee order in favour of the Clerk of the Maintenance Court as he is required to take such steps for the civil enforcement of directions as may be necessary.

.....
Clerk of the Maintenance Court



CASE NO

IN THE MAGISTRATES COURT
FOR THE PROVINCE OF MASHONALAND
HELD AT HARARE
COMPLAINT ON OATH IN TERMS OF SECTION 4(1) MAINTENANCE ACT,
[CHAPTER 5:09]

In the matter between

.....Applicant

Versus

.....Respondent

I,make oath and say:

- 1. I am a married/ unmarriedwoman (race)
Residing at
- 2. A.....I married.....
(Christian names and surnames)
.....at.....and there is/are
.....

Legitimate child(ren), namely:

| | NAME | DATE OF BIRTH |
|-----|-------|---------------|
| (1) | | |
| (2) | | |
| (3) | | |
| (4) | | |
| (5) | | |
| (6) | | |
| (7) | | |

OR

B.....s the father of
(Christian names and surnames)

.....minor child(ren) born to me, namely:

(number)

- (1)
- (2)
- (3)
- (4)



ANNEXURE
EXPENSES PER MONTH
SELF AND/OR CHILDREN

Rent or bond.....

Rates

Lights and water.....

Telephone

Worker

Insurance: car, house, etc)

H.P Instalments (car, furniture, etc)

Loans

Car (licence, running and up keep)

Fares (bus, taxis)

Medical and Dental Aid.....

Doctors.....

Dentist

School fees.....

Crèche fees.....

Day mother

Clothes (uniforms)

Chemist

Provision for holidays

Incidents

Salary: \$.....

Less total expenses: \$.....

Outstanding: \$ _____

Note: - You are advised to produce at the hearing, if available your current advice and receipted accounts for those expenses normally receipted. Failure to do so may prejudice your case.

He is

and when employed earns

(Occupation)

Approximately \$per month/week and is able to

pay \$ per month

For his child (ren) and myself.

Signature:



Address

.....
.....

Telephone

.....

Sworn at

thisday of, 20.....

BEFORE ME

Signature

Maintenance Officer/Commissioner of Oaths.



Form P.J.1
IN THE MAGISTRATE’S COURT
FOR THE PROVINCE OF MASHONALAND
HELD AT HARARE

In the matter betweenApplicant

And

.....Defendant

NOTICE OF APPLICATION FOR

Take notice that Application will be made on this Honourable Court on theday
Of.....20at..... a.m./p.m. or
soon thereafter as the matter may be made for.....

And further take notice that the Applicant’s Affidavit annexed hereto will be used in
support of such application.

Dated at Harare this day of20

.....
.....
.....
.....

To: The Clerk of Court
Magistrate’s Court
HARARE

AND TO:

.....
.....
.....
.....

.....



CASE NO.....
IN THE MAINTENANCE COURT,
FOR THE PROVINCE OF

HELD AT

In the matter betweenComplainant

And

.....Respondent

APPLICATION IN TERMS OF SECTION 8(1) OF THE MAINTENANCE ACT
[CHAPTER 5:09]

FOR VARIATION/ DISCHARGE OF MAINTENANCE ORDER OF DIRECTION.
(To be completed in quadruplicate)

I,.....do hereby make oath and state
that I hereby apply for the variation/discharge of the Maintenance Order/Direction registered in
this court onon the following grounds

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

I hereby acknowledge that I have read this affidavit/ have had this affidavit read to me and that
I adhere to the contents thereof and declare them to be true and correct.

Signed

Sworn atthis.....day of 20.....

before me.

.....
Maintenance Officer/Commissioner of Oaths

NOTE: -
You will be required to produce proof of your allegations contained in this affidavit, i.e. proof
of the changed circumstances, and you are advised to bring documentary evidence, if available,
to the court hearing.



CASE NO.....
IN THE MAINTENANCE COURT,
FOR THE PROVINCE OF

HELD AT

In the matter betweenComplainant
And
.....Respondent

NOTICE IN TERMS OF SECTION 9 (2) OF THE MAINTENANCE ACT [CHAPTER 5:09]
TO EMPLOYER TO SHOW CAUSE WHY HE SHOULD NOT BE DIRECTED TO PAY
MAINTENANCE.

TO:

1. (Employer) 2. (Employee)
Address: Address

WHEREAS a Maintenance Order made against

Hereinafter referred to as the “responsible person”, has been registered in this court in terms of
Section 18 of the Maintenance Act (Chapter 5:09) for the payment of maintenance in the sum
of \$....., and whereas this court has received an application for a direction to
be made against(Employer)

to make payments including arrears amounting to \$....., from salary, wages,
remuneration or allowances due to the responsible person by the employer, you are hereby
notified that this matter will be heard in this court and should you wish to oppose any such
direction you should appear to show cause at this court at:

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

(Maintenance Officer)
To: The Clerk of Court
Magistrate’s Court
HARARE

I hereby certify that I have this..... day.....20.....
served a true copy of the within-mentioned process on the within-mentioned

-
.....
(1) by handing it to him personally, or
(2) by handing it to (Employer, relative etc.)
.....in the province ofand have fully explained:
(1) to him:
(2) to the saidthe exigencies thereof.

Signature: Rank: No.....

IN THE MAINTENANCE COURT

The Community Court
Held at

DIRECTION ORDERS

Notice in terms of Section 6(5) or 9(2) of the
Maintenance Act, [Chapter 5:09]

To: (Employer)

(Employee)
.....
.....
.....

WHEREAS a Maintenance Order made against

Hereinafter referred to as the responsible person, has been registered in this court in terms of
section 18 of the Maintenance Act, [Chapter 5:09] for the payments of maintenance in the sum
of \$.....(total).

*AND WHEREAS this court proposes/has received an application to direct that you
..... (Employer) make the maintenance payments, including any arrears
\$ from the salary, wages, remuneration or allowances due to the
responsible person by the employer.

YOU ARE HEREBY notified that this matter will be heard in this court and should
you wish to oppose any such direction you should appear to show cause at this Court at
.....on the day of
20....., filing which an order may be made in your absence.

(Maintenance Officer)

To: The Clerk of Court
Magistrate's Court
HARARE

I hereby certify that I have this day of20.....
served a true copy of the within-mentioned process on the within-mentioned.....

- (1) by handing it to him personally, or
- (2) by handing it to
(Employer, relative etc.)in the province of
.....and have fully explained:
- (1). to him:
- (2). to the saidthe exigencies thereof.



AND have obtained his E.C. number/payslip.

Signature: Rank: No.....

NOTE.

- (1) This notice is issued either when the court itself decides to make direction under section 6 (5) or when an application is made for a direction in terms of section 9(1) of the Act.
- (2) The notice must be served on both the employer and the employee (responsible person).
- (3) The employee's E.C. number or payslip must be obtained by the person serving process or should be produced to the court by the employer or employee.



IN THE MAINTENANCE COURT
MAGISTRATE COURT

Held at

DIRECTION AGAINST EMPLOYER IN TERMS OF SECTION (9) OF THE
MAINTENANCE ACT [CHAPTER 5:09].

In the matter of
.....
(Applicant)

.....
(Responsible person)

.....
(Employer)

Take notice that on, 20 the Maintenance Court
Ordered your employee E.C. No
to pay \$

Per month with effect from since
this order has not been complied with voluntarily by the said responsible person, it is now
hereby directed in terms of Section 6/9 of the Maintenance act [Chapter 5:09] that you the
employer.....

Do deduct per month/week with effect from, 20....., the
sum of \$..... (Being current Maintenance of \$..... have been discharged
thereafter every succeeding month/week there shall be deducted current maintenance of
\$..... until further notice.

The above deductions shall be payable to the Clerk of Court of

Magistrates' Court

NOTES TO EMPLOYER

(Clerk of Court)

CURRENT DEBT \$..... PER MONTH/WEEK

TO THE EMPLOYER

ARREARS ACCUMULATED

FROM THE MONTH ORDER

WAS MADE COURTS\$

ARREARS TO BE DISCHARGED

AT THE RATE OF \$..... PER MONTH/WEEK SIMULTANEOUSLY WITH CURRENT
DEBT \$.....

EFFECTIVE FROM



**Annexure D1
FORM PJI**

IN THE MAGISTRATE'S COURT
FOR THE PROVINCE OF MASHONALAND
CASE NO.....
HELD AT HARARE

In the matter between..... APPLICANT
And
..... Defendant

NOTICE OF APPLICATION FOR.....
Take notice that Application will be made to this Honourable Court
on theday of.....20.....at.....am/pm. Or
soon thereafter as the matter may be made for.....

And further take notice that Applicant's Affidavit annexed hereto will be used in support
of such application.

Dated at Harare this..... day of20.....

.....
.....
.....
.....

To: The Clerk of Court
Magistrate's Court
HARARE

AND to:
.....
.....



**APPLICATION FOR PROTECTION ORDER
DOMESTIC VIOLENCE ACT [CHAPTER 5:16]
(SECTION 7)**

APPLICATION (To be completed by applicant or applicant's representative)

1. PARTICULARS OF COMPLAINANT (Victim of domestic violence)

SURNAME:

FIRST NAMES:

HOME OR TEMPORARY ADDRESS:

.....
.....
.....
.....

HOME/CONTACT TELEPHONE NUMBER:.....

WORK TELEPHONE NUMBER:.....

WORK:

ADDRESS:

.....
.....
.....

WORK TELEPHONE NUMBER:

NATURE OF DOMESTIC RELATIONSHIP WITH PERSON WHO COMMITTED THE
ACT OF DOMESTIC VIOLENCE

(RESPONDENT).....

OCCUPATION:

**2. PARTICULARS OF PERSON MAKING THE APPLICATION ON BEHALF OF THE
COMPLAINANT**

(IF APPLICABLE)

SURNAME:

FIRST NAME:

I.D. NO./DATE OF BIRTH:

HOMEADDRESS:

.....
.....



HOME TELEPHONE NUMBER.....
WORK ADDRESS.....

.....
WORK TELPEHONE NUMBER:.....
CAPACITY IN WHICH APPLICATION IS MADE

.....
NATURE OF RELATIONSHIP WITH THE COMPLAINANT.....

.....
STATE REASON(S) WHY APPLICATION IS MADE ON BEHALF OF THE COMPLAINANT:

.....
.....
.....

3. PARTICULARS OF PERSON WHO COMMITTED ACT OF DOMESTIC VIOLENCE
(HEREAFTER CALLED THE Respondent) – in so far as such particulars are available:

SURNAME.....
FIRST NAMES.....
I.D. NO./DATE OF BIRTH.....
HOME ADDRESS

.....
HOME TELEPHONE NUMBER.....
WORK ADDRESS.....

.....
HOME / CONTACT TELEPHONE NUMBER.....
WORK ADDRESS.....

.....
WORK TELPEHONE NUMBER.....
OCCUPATION.....

.....



4. PERSON AFFECTED BY DOMESTICE VIOLENCE

4.1 PARTICULARS OF CHILDREN AND ADULTS SHARING THE RESIDENCE:

NAME.....

AGE:.....

RELATIONSHIP TO COMPLAINANT:.....

4.2 HOW ARE THESE PERSONS AFFECTED?.....

.....
.....
.....
.....

4.3 DO ANY OF THESE SUFFER DISABILITIES? IF SO GIVE DETAILS.....

.....
.....
.....

5. INFORMATION REGARDING ACTS OF DOMESTIC VIOLENCE

GIVE FULL DETAILS REGARDING ALL INCIDENTS OF DOMESTIC VIOLENCE:

.....
.....
.....
.....
.....
.....

6. INFORMATION REGARDING URGENCY OF APPLICATION

GIVE FULL DETAILS REGARDING ALL INCIDENTS OF DOMESTIC VIOLENCE:

.....
.....
.....
.....
.....
.....

7. TERMS OF THE PROTECTION ORDER REQUESTED.

It is requested that the court will order the respondent as follows: (Mark the appropriate term with an "X" and complete with additional information where necessary.

- a) Not to commit any of the following acts against the complainant.

Physical assaults

.....
.....
.....



Threatening, insulting behaviour.....
.....
.....

b) To stay away from the following premises where complainant resides
.....
.....
.....

c) Not to approach or enter the following premises where complainant is employed.
.....
.....
.....

d) Not to prevent or hinder complainant from entering the following premises where complainant resides or from using the facilities attached thereto
.....
.....
.....

e) Not to prevent or hinder any child who normally lives with the complainant at the premises listed in (d) above from entering those premises and using the facilities attached thereto or any such part of those premises in which the complainant resides.
.....

f) Not to commit any other act, namely
.....
.....
.....

8. ADDITIONAL DIRECTIONS REQUESTED

It is requested that the Court will make the following directions-

I. To direct the Respondent to pay the following emergency monetary relief. Specify amounts and what they are required for (a supplementary sheet listing the amounts may be appended to this application.)

.....
.....
.....
.....



II. To direct the payment of compensation to the complainant at an amount determined by the court after an assessment of the extent or of the injury or harm suffered.

III. To direct that temporary custody of the following child/children:

.....Aged.....

.....Aged.....

.....

Aged.....

.....Aged.....

.....

Aged.....

.....

.....

.....

And that access by Respondent to the said child/children shall be supervised/totally prohibited/restricted to the following (delete the inapplicable)

.....

.....

.....

.....

.....

IV. To direct the Respondent to comply with the following additional conditions (Specify).

.....

.....

.....

.....

.....

9. SELECT POLICE STATION

It is requested that a copy of any interim protection order warrant or arrest that may be issued by the court shall be forwarded to the following Police Station:

.....

.....

10. CERTIFICATION

I hereby certify that I understand the purpose of this application and the particulars given therein are true and correct, to the best of my knowledge and belief.

Signed _____

Complainant/Complainant's Representative

Annexure D3
DOMESTIC VIOLENCE REGULATIONS, 2008
STATUTORY INSTRUMENT 92 OF 2008

DV6

INTERIM PROTECTION ORDER
DOMESTIC ACT [CHAPTER 5:16]
(SECTION 9)

| |
|---|
| IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF _____ HELD AT _____ APPLICATION No _____ / _____ |
|---|

| |
|---|
| In the matter between: _____ APPLICANT (I.D. NO./DATE OF BIRTH) AND _____ RESPONDENT (I.D. No. /Date of Birth: (if known)) |
| 1. PARTICULARS OF RESPONDENT Home Address: _____ _____ Tel No. _____ WORK Address: _____ _____ Tel No. _____ Occupation: _____ |

2. PARTICULARS OF APPLICATION

An application for a protection order has been made against the Respondent in terms of the attached application and affidavits (if any).

The application has been considered by the Court and the following order has been made:



3. INTERIM PROTECTION ORDER BY THE COURT

(1) The Respondent is ordered: -

(a) Not to commit any of the following acts against the complainant:

.....
.....
.....

(b) To stay away from the following premises (or part thereof) where the complainant resides:

.....
.....
.....

(c) Not to approach or enter the following premises where the complainant is employed:

.....
.....
.....

(d) Not to prevent or hinder complainant from entering the following premises where complainant resides or from using the facilities attached thereto:

.....
.....
.....

(e) Not to prevent or hinder any child who normally lives with the complainant at the premises listed in (d) above from entering those premises and using the facilities attached thereto or any part of those premises in which the complainant resides.

.....
.....
.....

(f) To pay the following emergency monetary relief.

.....
.....
.....

(g) To observe or comply with the following conditions or directions.

.....
.....
.....

(h) To observe or comply with the following conditions or directions.

.....
.....
.....



(2) Temporary custody of the following child/children

.....
.....
.....
.....
.....

is awarded to.....

.....

subject to the following rights of access (if any)

.....
.....
.....

This interim order shall remain in force a period of five (5) years unless earlier revoked in terms of the Act.

4. ATTACHED WARRANT OF ARREST

A warrant for the arrest of the Respondent is attached hereto. It is suspended on condition that the Respondent complies with the provisions of this order.

A copy of this order and the attached warrant shall be supplied to the Complainant and at the Police Station at:

.....
.....
.....

1. NOTICE TO SHOW CAUSE WHY FINAL PROTECTION ORDER SHOULD NOT BE ISSUED.

.....
.....
.....

The respondent is hereby called upon to show cause to the court on the

.....

Why a final protection order should not be issued.

You are advised that it is in your interest to attend the hearing and you are warned that the Court can issue a final protection order against you even in your absence.

Dated at: _____

Signed _____

JUDGE/MAGISTRATE

STAMP



Annexure D4

DOMESTIC VIOLENCE REGULATIONS, 2008
STATUTORY INSTRUMENT 92 OF 2008

DV 7

PROTECTION ORDER
DOMESTIC VIOLENCE ACT [CHAPTER 5:16]
(Section 10)
IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF

HELD AT _____

In the matter between _____ APPLICANT

(I.D. NO/Date of Birth:.....)
And _____ RESPONDENT

I.D. No./Date of Birth: (if known)

1. PARTICULARS OF RESPONDENT

HOME ADDRESS _____

Tel No: _____

Work Address: _____

Tel No.: _____

Occupation _____

2. Particulars of application

An application for a protection order has been made against the Respondent.
If the respondent does not already have particulars of the application the Respondent may apply for them to the Clerk of Court.

The application has been considered by the Court and the following order has been made:

3. PROTECTION ORDER BY THE COURT

(1) The Respondent is ordered –

| | |
|-----|--|
| (a) | Not to commit any of the following acts against the complainant: |
| (b) | Not to enter the following premises (or part thereof) where the complainant resides: |
| (c) | Not to enter the following premises where the complainant is employed: |
| (d) | Not to prevent or hinder complainant from entering the following premises where complainant resides or from using the facilities attached thereto: |
| (e) | Not to prevent or hinder any child who normally lives with the complainant at the premises listed in (d) above from entering those premises and using the facilities attached thereto or any part of those premises in which the complainant resides. |
| (f) | To pay the following emergency monetary relief for the period specified (not exceeding six (6) months): |
| (g) | To observe or comply with the following conditions |

(2) Temporary custody of the following child/children for the period specified (not exceeding six (6) months):
.....
.....
.....
.....
.....
..... is awarded to.....
.....



Subject to the following rights of access (if any).....

.....

DV 7

.....

.....

.....

.....

.....

.....

4. ATTACHED WARRANT OF ARREST

A warrant for the arrest of the Respondent is attached hereto. It is suspended on conditions that the Respondent complies with the provisions of this order.

A copy of this order and the attached warrant shall be supplied to the Complainant and the Police Station at:

.....

.....

.....

Dated at: _____

Signed _____
JUDGE/MAGISTRATE

STAMP



Dated a

Signed.....

JUDGE/MAGISTRATE

STAMP

DOMESTIC VIOLENCE ACT [CHAPTER 5:16]
 WARRANT OF ARREST

(ATTACHED TO INTERIM PROTECTION ORDER)

TO ALL MEMBERS OF THE ZIMBABWE REPUBLIC POLICE force
 This warrant authorises you to arrest the Respondent named in the attached Interim Protection Order if you are satisfied that:

1. **The Respondent concerned has been served with or has had notice of the Interim Protection Order; and**
2. **There are responsible grounds for believing that the respondent has committed, is committing or is threatening to commit a breach of the Interim Protection Order and that it is necessary or desirable to arrest the Respondent in order to protect the Complainant from serious or substantial harm, discomfort or inconvenience (whether physical emotional or economic).**

If the Respondent is arrested in terms of this warrant he or she must be brought before a court as soon as possible on a charge of contravening Sectionof the Act.

Dated atthis.....day of....., 20.....

Signed.....
 JUDGE/MAGISTRATE



CASE NO.....

SUMMONS UNDER SECTION 388 OF THE CRIMINAL
PROCEDURE AND EVIDENCE ACT [CHAPTER 9:07]

Magistrate’s Court

Province of Mashonaland

In the matter between

..... COMPLAINANT

And

.....RESPONDENT

TO.....

OF:

Whereas from information upon oath there is a reason to believe that oath is breaching the complainant’s peace.

NOW, THEREFORE, THIS REQUIRES YOU to appear before Court of the Magistrate at
..... am/pm on the day of..... 20

To answer the complainant of the saidand to show cause, why you should not give Surety to keep peace towards the Complainant and to refrain from injuring the property of the said Complainant), with costs.

GIVEN UNDER HAND AT HARARE THIS DAY OF20.....

CLERK OF COURT



LETTER OF DEMAND

Plaintiff's Address.....

.....

.....

.....

To:

Address.....

.....

.....

Re: FINAL DEMAND IN TERMS OF SECTION 22 OF THE SMALL CLAIMS COURTS
ACT [Chapter 7:12]

I hereby demand:

.....
.....
.....
.....
.....
.....
.....

Unless this demand is met within 14 days after receipt of this letter, summons will be issued
against you in the Small Claims Court.

Yours faithfully

.....
Plaintiff's signature

.....
Plaintiff's name (Printed)



CASE NO...../20

SUMMONS

Summons to appear in the Small Claims Court at

.....

i. PARTIES

Plaintiff (Name)

(Address)

.....

.....

Defendant: (Name)

(Address)

.....

.....

ii. NOTICE TO THE DEFENDANT

You, the Defendant, are hereby summonsed to appear before the Small Claims Court at..... am/pm on.....,20 to answer the claim of the plaintiff as set out in Section III.

iii. PLAINTIFF'S CLAIM

Plaintiff's claims are for:

.....

.....

.....

.....

.....

.....

iv COSTS

If the Messenger of the Court has served this summons on you the costs of service will be \$.....(messenger to enter around) and the Plaintiff will be entitled to claim these costs from the Defendant.



Case No..... /20

AFFIDAVIT

**AFFIDAVIT REGARDING DELIVERY OF LETTER OF DEMAND TOWARDS
PROOF OF DELIVERY OF LETTER OF DEMAND**

I, the undersigned _____

Do hereby state under oath that:

On _____, 20_____ I delivered a letter of demand
to

(a) By handing to him/her personally at his/her home/business address.

Or *delete inapplicable

(b) by sending it by registered post to his/her home/business address.

A copy of the said letter of demand is attached

Signed.....

Deponent

Signed before me at thisday of, 20

By the deponent who declared that he/she understands the contents of the above affidavit.

Signed.....

Commissioner of Oaths.



RETURN OF SERVICE

(a) Where summons served personally by the Plaintiff.

This is to certify that I personally handed a copy of the summons to the Defendant on

.....

.....

Signature of Plaintiff

(b) Where served by Messenger of Court.

This is to certify that I have served a copy of the summons by the following method (in accordance with the Rules of the Court applicable in the Magistrates Court)

.....

..... on.....

Signature of the Messenger of the Court

ISSUE OF SUMMONS

This summons has been issued by the Clerk of the Small Claims Court at

On the 20.....

.....

Signature of Plaintiff

.....

Signature of the Clerk of the Court

And official stamp



WHAT DEFENDANT MUST DO

If you, the Defendant: -

- (1) Deny liability you **MUST** attend the hearing as set out in section ii. You may also, if you wish, lodge with the clerk of the court two copies of your written statement of defence to the claim on the forms which are available at the clerk of court's office, you should do this as soon possible before the date of the hearing so that the court and the plaintiff know that you are denying the claim and what your defence is.
- (2) Wish to make counterclaim you **MUST** lodge two copies of your counterclaim with the clerk of the court at least seven days before the hearing. You should do this on the forms which are available at the Clerk of Court's office. You must attend the hearing as set out in Section ii.
- (3) Admit liability in whole or in part and wish to consent to judgment before the hearing. You must lodge two copies of a consent to judgment with the clerk of the court on the forms which are available at the clerk of the court's office. You should do this as soon as possible before the hearing so that the plaintiff may know whether or not to accept your consent. You **MUST** attend the hearing as set out in Section ii, even if you have consent to judgment in full or in part **UNLESS** you have received written notice from the clerk of the court advising you that you are no longer required to do so.
- (4) Wish to approach the plaintiff before the hearing and wish to make an offer of settlement you are at liberty to do so **UNLESS** the Plaintiff accepts your offer before the hearing and you are advised in writing by the Clerk of Court that the case has been withdrawn, you **MUST** act in terms of (i or (ii) or (iii) above.

ATTENDING THE HEARING

- (i) You, the Defendant, **MUST** attend the hearing as set out in Section II. **UNLESS** before the hearing you have consented to judgment or made an offer of settlement in the Plaintiff and the Clerk of the Court has advised you in writing that you need no longer attend.
- (ii) If you are being sued as an individual you must appear personally. If you are being sued as a body (e.g. a company) you must appear through a persona who has been authorised by the body to represent it. Legal Practitioners may not appear in the Small Claims Courts though you are at liberty to consult one in connection with this case. If you wish.
- (iii) You should bring your witnesses and exhibits. (If any) to the hearing to answer the Plaintiff's Claim or to make your counterclaim (If any). However, it will not be necessary to produce witnesses or exhibits if you consent to judgment in full.

IF DEFENDANT FAILS TO ATTEND THE HEARING

If you the defendant fail to attend the hearing as required, judgment by default with costs may be given against you in terms of section 25 of the Small Claims Act [Chapter 7:12]

SMALL CLAIMS

CASE NO.....

MAGISTRATES' COURT

HELD AT

**DIRECTION AGAINST EMPLOYER IN TERMS OF SECTION 29 (1)(b) OF THE SMALL CLAIMS ACT
[CHAPTER 7:12]**

IN THE MATTER OF

.....
(Plaintiff)

.....
(Responsible Person)

.....
(Employer)

Take notice that on20....., the Small Claims Court of

Ordered your employee..... EC. No.

to pay \$.....

For month with effect from.....

since this order has Not been complied with voluntarily by the said responsible person,
it is now hereby directed in terms of section 29(1) (b) of the Small Claims Act [Chapter 7:12]
that you the employer.....

Do deduct per month/week with effect from 20..... the sum
of \$.....(being debt owing of \$.....) and Arrears at the rate of
\$..... per month/week until the arrears of \$..... have been discharged
thereafter every succeeding month/week. There shall be deducted current debt
\$..... until further notice.

The above deductions shall be payable to Plaintiff's account number

.....

.....
(Clerk of Court)

TO THE EMPLOYER
.....
.....

NOTES TO EMPLOYER
CURRENT DEBT \$.....
PER MONTH/WEEK

ARREARS ACCUMULATED
FROM THE MONTH ORDER
WAS MADE COURT\$.....

ARREARS TO BE DISCHARGED
AT THE RATE OF \$..... PER
MONTH/WEEK SIMULTANEOUSLY WITH
CURRENT DEBT \$.....
EFFECTIVE FROM



CASE NO. SCC.....

JUDGMENT OF THE SMALL CLAIMS COURT: HARARE

PLAINTIFF'S Name and Address

DEFENDANT'S Names and Address

JUDGMENT DEFAULT/JUDGMENT CONSENT/JUDGMENT (delete the inapplicable) as entered for the Plaintiff. The Defendant is ordered to pay \$..... together with costs in the sum of \$..... and interest at the rate of 5 percent per annum from.....

To date of final payment.

TERMS OF PAYMENT (delete the inapplicable)

1. The defendant is ordered to pay the whole amount within days from the date of receiving this judgment (in the case of a default judgment)
2. The defendant is ordered to pay the whole amount by
3. The defendant is ordered to pay instalments of \$..... to be paid by the last day of each month starting from..... until the whole amount including costs and interests is paid up.

N.B- No payment shall be made to the Court. The defendant shall make all payments directly to the Plaintiff or into the plaintiff's Bank account No.....at (name of Bank)

If the Defendant pays into the Plaintiff's Bank Account, the Defendant is advisable to file with the Clerk of Small Claims Court a copy of the Bank deposit slip, otherwise the Court may end up issuing a Warrant of Execution or a Warrant of Arrest when in fact payment has been made.

WARNING – The Defendant's failure to comply with the terms of this judgment may lead to a warrant of execution against the Defendant's property, a warrant of arrest against the Defendant for contempt of Court or a Garnishee Order directed to the Defendant's employer. This will also lead to escalation of costs and interests.

.....
Provincial Magistrate
Small Claims Court

SCC NO.....



SUMMONS TO APPEAR IN THE SMALL CLAIMS COURT TO ANSWER CHARGES FOR REFUSING TO COMPLY WITH COURT ORDER

.....
.....
.....
.....

Re: On you were ordered by the court to pay the Plaintiff the sum of \$..... and you have not complied.

Now you are required to appear in this court on20 at 8:30 a.m. to show cause why you should not be fined or committed to Prison in terms of section 32(2) of the Small Claims Court Act [Chapter 7:12].

Your failure to attend will result in a WARRANT OF ARREST being issued against you.

The Plaintiff is also REQUIRED TO ATTEND THE HEARING.

.....
Clerk of Small Claims Court
Cnr. Simon Vengai Muzenda Street/
Kwame Nkrumah Avenue
Harare



S.C.C. No.....

SUMMONS TO APPEAR IN THE SMALL CLAIMS COURT TO ANSWER CHARGES FOR REFUSING TO COMPLY WITH COURT ORDER

.....
.....
.....
.....
.....

Re: Onyou were ordered by the court to pay the Plaintiff the sum of \$..... and you have not complied.

Now you are required to appear in this court on20..... at 8:30 am to show cause why you should not be fined or committed to prison in terms of section 32(2) of the Small Claims Court Act [Chapter 7:12].

Your failure to attend will result in a WARRANT OF ARREST being issued against you.

The Plaintiff is also REQUIRED TO ATTEND THE HEARING.

.....
Clerk of Small Claims Court
Cnr Simon Vengai Muzenda Street/
Kwame Nkrumah Avenue
Harare.



**STANDARD OPERATING PROCEDURES
FOR THE CRIMINAL REGISTRY:
CHIEF MAGISTRATE'S DEPARTMENT
ANNEXURES**



**ANNEXURE 1
MAGISTRATE'S COURT
SUMMONS**

PROVINCE OF

| STATION | C.R NO | C.R.B NO | P.P's REF |
|---------|--------|----------|-----------|
| | | | |

TO

(1) ALL AND EACH OF THE MEMBERS OF THE POLICE FORCE;

AND

(2) ALL PRESCRIBED OFFICERS AUTHORISED TO SERVE THIS SUMMON IN TERMS OF ORDER 11A OF THE MAGISTRATES COURTS [CRIMINAL] RULES, 1966

You are hereby required and directed by THE STATE on the sight hereof to summon

Of

That he appear personally before the court of the Magistrate at

On the day of

at o'clock in the forenoon,

To answer and abide the judgement of the court, arising from the following charge(s)

Serve on the said accused

A copy of this summons, and return to this court what you have done hereon.

Dated at this day of 20.....

| | |
|--------------------|-------|
| Particulars: Birth | |
| Date | Place |
| Entry to Zimbabwe | |
| Date | Place |

.....

Clerk of Court



Reverse side

I hereby certify that I have this day of, 20.....

Served a true copy of the within-mentioned summons on the within mentioned

- (1) By handing it to him personally;
- (2) By handing it to (employer, relatives, etc)

At

in the Province of

And have fully explained

- (1) To him;
- (2) To the said

The exigencies thereof

.....
Signature

Rank Office Held No.....
.....

In the Court of the Magistrate for the Province of

Holden at

Before

Magistrate for the said Province on the

day of, 20.....

The prisoner, being arraigned, pleaded

Judgment:

Sentence:



**ANNEXURE 2
WARRANT OF ARREST**

Crime Reg No :.....CRB NO:.....
..... Esq,
Magistrate for the DISTRICT OF

To the Police Officers and other Officers of the Law proper to the execution of Criminal Warrants.

WHEREAS
..... of.....

.....
*was duly summoned to appear in the magistrate's court for the province of
at.....
at.....am/pm in the noon
on the day of.....20..... to answer a
charge of contravening.....

AND WHEREAS the above-named was in default and was fined.....
And a warrant of arrest was ordered.

.....
*was duly summoned to appear in the magistrate's court for the province of
at.....
at.....am/pm in the noon on the
..... day of20..... to
testify and declare all known concerning a certain charge preferred against
.....
for.....
AND WHEREAS the above named was in default and a warrant of arrest was
ordered

.....
*was convicted/remanded by the magistrate,
..... on the day of
.....20.....; of/on a charge of.....
..... and sentenced
to/and released on bail
.....AND
WHEREAS THE ACCUSED has not complied with the conditions of suspension/
has defaulted in the condition of his recognisance.

This is therefore to require you to arrest the said accused and cause him brought
before me to be dealt with according to law.
GIVEN UNDER MY HAND AT..... this.....day
of.....20

.....
MAGISTRATE

*Delete the inapplicable



ANNEXURE 3

C.R.B.No

P.Ps.Ref.

SUBPOENA

Court of the magistrate for the province of
To the member in charge,
Zimbabwe Republic Police
You are hereby required to summon
That he/they and each of them, appear personally before this court in Court
Number at
On at 08.00 o'clock

In the afternoon, to testify and declare all he/they, and each of them, know
concerning a certain charge preferred against

For

And that he/they, and each of them, bring with them and produce before this
court

Serve on each of them, the said witness/es a copy of this subpoena and return
to this court, on that day, what you have done hereon.

Given under my hand, at
This day of20

.....
Clerk of the Court

Issuer of process

I hereby certify that I have personally this day
Served a true copy of this subpoena on the within-mentioned
Personally/or by
And have explained the exigencies therefore
Signature:rank: No.

Name:
Zimbabwe Republic Police



ANNEXURE 4

ZRP CR ANNEXURE

SUMMARY JURISDICTION

In the matter of Magistrate for the province

Before Esquire
Magistrate

Holden at

Name of accused:

Age:

(Hereinafter called the accused) Charged with the
crime of

REVERSE

PLEA
.....
.....
.....
.....

VERDICT
.....
.....
.....
.....
.....









