



Superior Courts

Standard Operating Procedures



STANDARD OPERATING PROCEDURES

SUPERIOR COURTS

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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.

W.T. Chikwana
SECRETARY, JUDICIAL SERVICE COMMISSION OF ZIMBABWE



INTRODUCTION

This manual is designed to guide Registrars and the Sheriff on the expected conduct and competencies required in order to discharge their duties with diligence. They are expected to keep this manual at hand as a reference which provides a framework within which to execute their duties with efficiency. It states the standards which are required to be met and sets out the expected conduct which is guided by the relevant rules, statutes and practice directives. Officers are encouraged to direct any questions they may have to their Head of Court using the appropriate channels of communication and administrative procedures.



CONSTITUTIONAL COURT

1.1 CHAMBER APPLICATIONS, COURT APPLICATIONS AND APPEALS

GENERAL REQUIREMENTS

The Registrar must check the following before accepting Constitutional Court processes:

In the applications listed below the following documents must be attached over and above the mentioned requirements.

COURT APPLICATIONS

- Court Application in Form CCZ 1;
- Founding Affidavit and supporting documents; and
- Draft Order.

CHAMBER APPLICATIONS

- Chamber Application in Form CCZ 3;
- Founding Affidavit and supporting documents; and
- Draft Order.

URGENT APPLICATIONS

- Chamber Application in Form CCZ 3;
- Founding Affidavit and supporting documents;
- Certificate of Urgency; and
- Draft Order.

Upon being satisfied that the documents comply with the above requirements:

- The Applicant is then referred to the Accounts Department for payment of the court fees and Sheriff's costs for service of Notices of Set-down;
- After payment the Applicant shall present receipts to the Registrar;
- The Registrar opens a record and places the receipts in the record;
- The allocated case number is endorsed on all copies of the application;
- The details of the case are then entered into the Index Book against the allocated case number;
- The Registrar issues the application by stamping on all the copies (pages/documents/annexures) of the application and appending his or her signature;
- Nine copies of the application shall be filed with the Registrar, in addition to as many copies as there are Respondents to be served;
- The exception is for applications to obtain the leave of court where five copies of an application shall be filed with the Registrar, in addition to as many copies as there are Respondents to be served.



CHAMBER APPLICATIONS

- At the request of one or more of the parties, the Registrar may, in consultation with the Chief Justice, allocate a date for the hearing of a case during the term or otherwise;
- Where no request is made for the set-down of a matter, the Registrar may set the matter down for hearing and shall notify the relevant parties of the date of such hearing.

Before referring a chamber application to a Judge, the Registrar must cross-check the following:-

- That the application complies with all the requirements above with regards to form;
- That a certificate of service has been filed by the Applicant;
- That the appropriate fees for an application have been paid and the receipt is enclosed in the file;
- Where the notice of opposition has not been received within five (5) days, the Applicant may request the Registrar to place the matter before the Chief Justice for determination and the Chief Justice may make such order as he/she deems fit in terms of Rule 20(4).

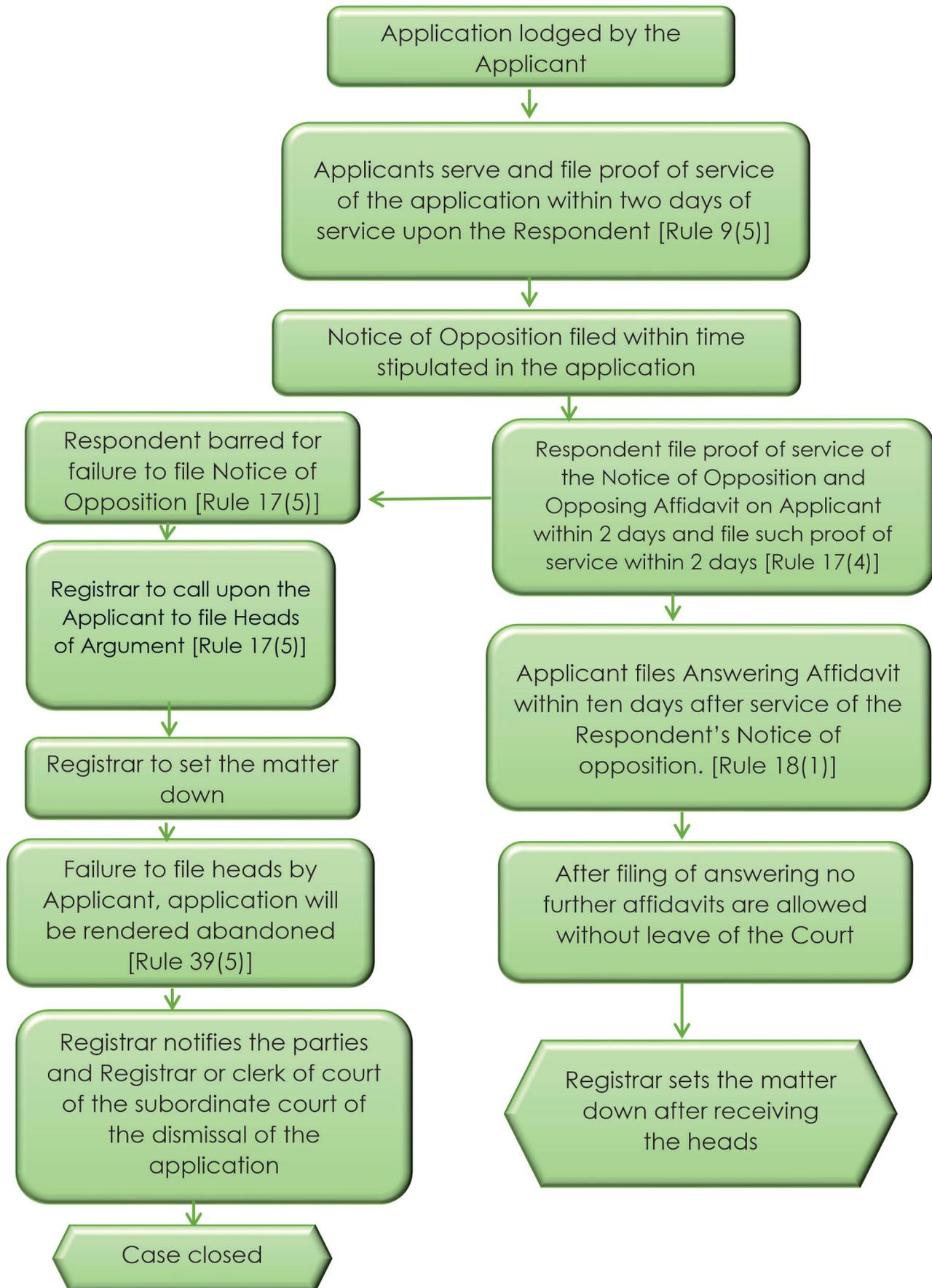
COURT APPLICATION

In setting down a Court application for hearing, the Registrar must cross-check the following:-

- That the Application complies with all the requirements above with regards to form CCZ1;
- That a certificate of service has been filed by the Applicant;
- That the appropriate fees for an application have been paid and the receipt is enclosed in the file.
- **NB:** Where an Opposing Affidavit has been filed, the Applicant may, if he or she so wishes, file an Answering Affidavit within 10 days of receipt of Respondent's Notice of Opposition if it is an ordinary application or 7 days in the case of an application regarding a dispute over the election of a President;
- The Registrar must then invite the parties or their legal practitioners to inspect the record before it is bound;
- The Registrar must ensure that the Applicant files a consolidated index;
- If the Applicant is a self-actor, the Registrar can go ahead and have the matter set down;
- If the Applicant is legally represented, he must then file Heads of Argument before the matter is set down.



CONSTITUTIONAL COURT GENERAL COURT APPLICATIONS



1.2 REFERRALS IN TERMS OF SECTION 175(4) OF THE CONSTITUTION

Where the basis of a constitutional application is a referral from a lower court in terms of Section 175(4) of the Constitution, the Registrar must check the following before issuing process:-

■ Records of proceedings

- Check that the application is accompanied by a copy of the record of proceedings containing evidence led and factual findings made by the person presiding in the lower court and affidavits or statements from the parties setting out the arguments that the parties seek to make before the Court. (Rule 24(3)-(5)).

■ Form

- Form CCZ4 must have been completed. This is a form where the Registrar or clerk of the referring court confirms and certifies that the record is correct and accurate. It must also contain the question(s) referred for the determination of the Constitutional Court. (Refer to Annexure "CC1" for CCZ 4 Form).

■ Reference Case Number

- Check that there is a reference case number where applicable.

■ Index

- Check that the application has been indexed where pages exceed five (5).

■ Pagination and annexures

- Check that the application is properly paginated with annexures clearly marked.

■ Addresses

- Check whether the application has been addressed to the Respondent and the Registrar of the Constitutional Court. Further check that the address of service for the parties is within a radius of 25 kilometers as provided for by Rule 7(1) of the **Constitutional Court Rules, 2016**.

■ Affidavits commissioned

- Check whether all affidavits are properly commissioned.

■ Draft Order

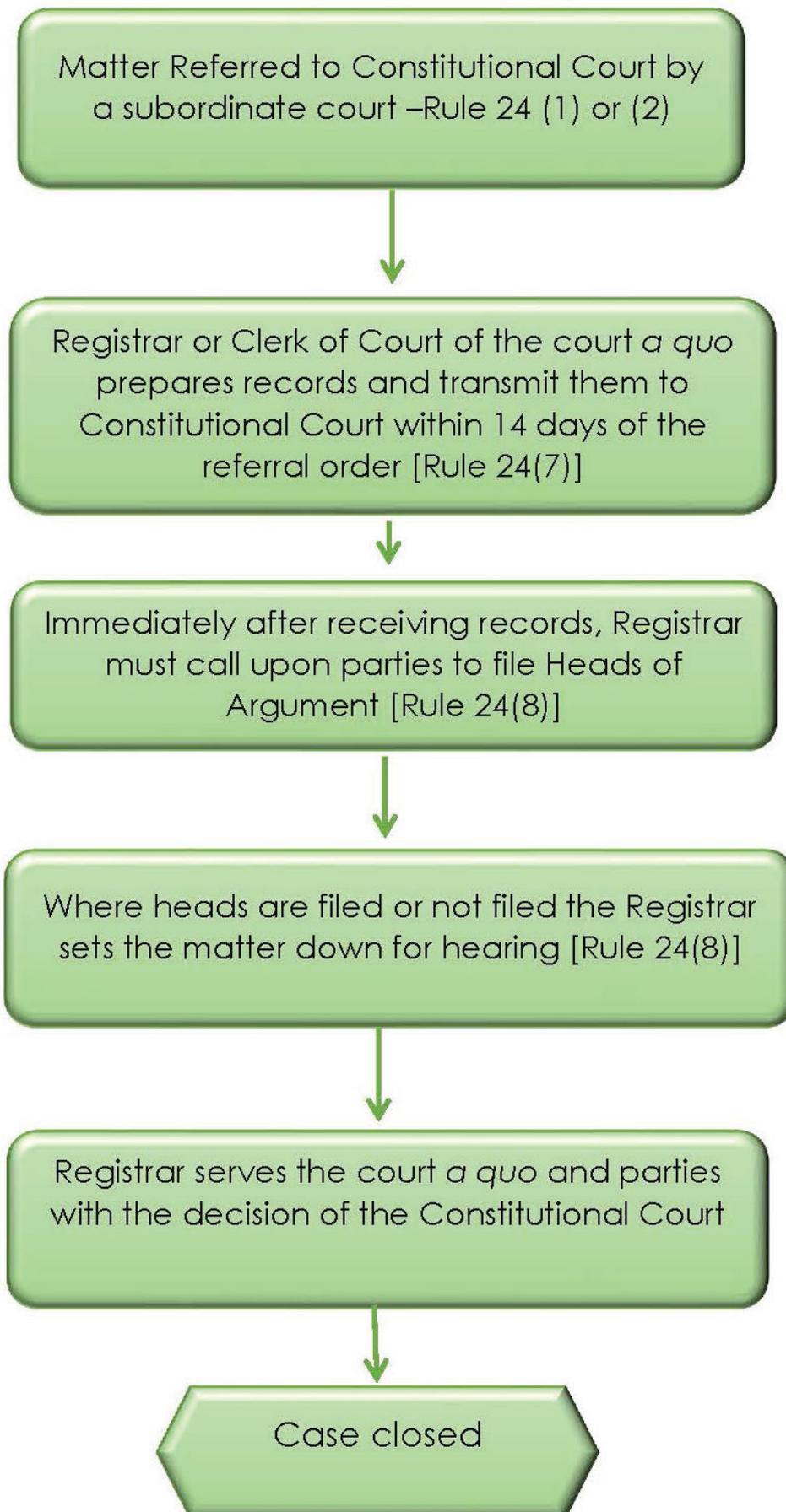
- Check that the Draft Order is included in the Application.

Issuing of Application

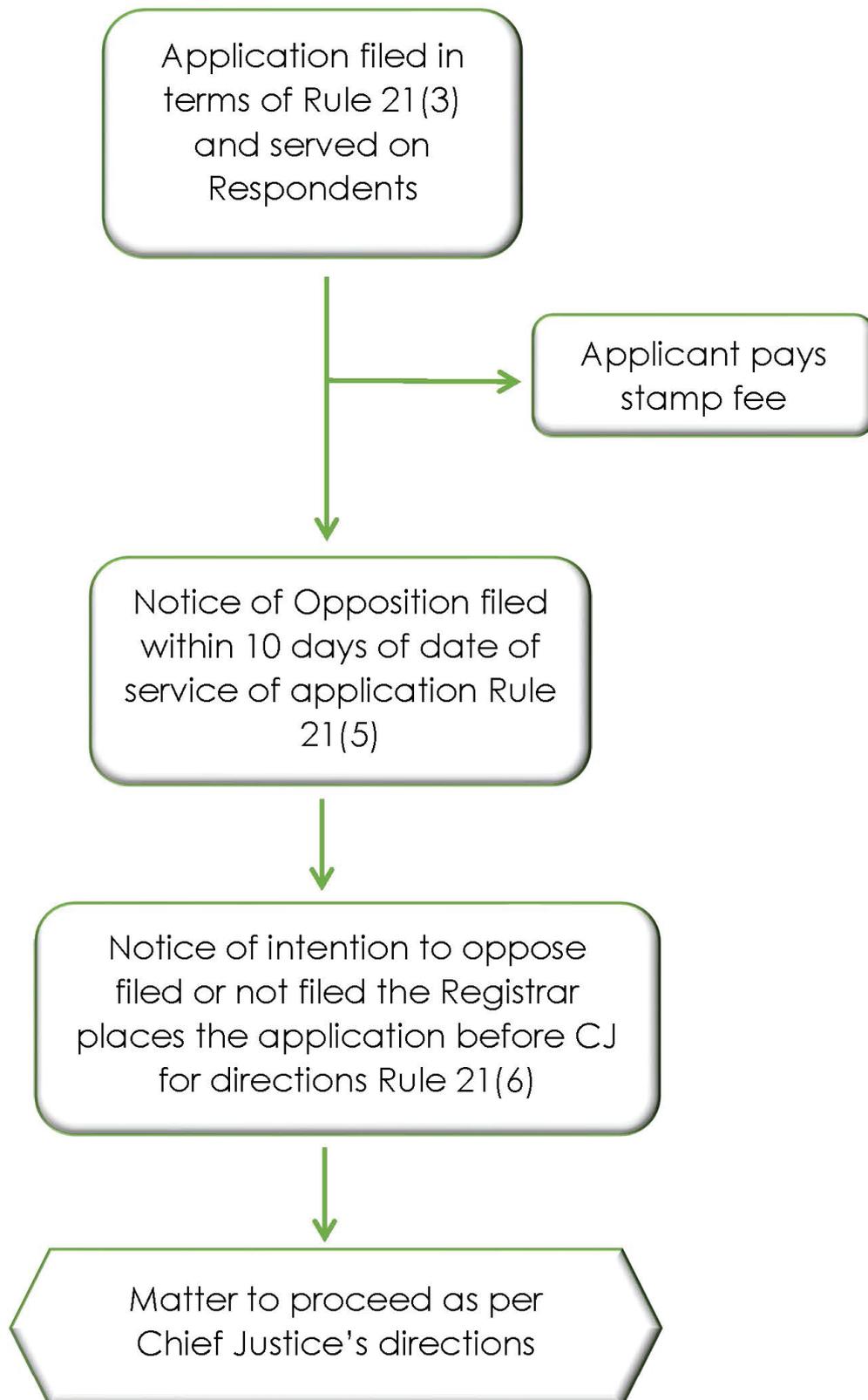
Upon being satisfied that the application complies with the above, the Registrar shall:-

- Allocate a case number which is the next number in the Index Book in chronological order for the particular year e.g. CCZ 27/ 2020;
- Call upon the parties to file their Heads of Arguments;
- After the filing of the Heads of Argument, or should either party fail to file Heads of Argument, the Registrar shall set the matter down for hearing before a full Bench.

REFERRAL CONSTITUTIONAL MATTERS FLOW CHART



CHAMBER APPLICATION FOR DIRECT ACCESS FLOW CHART



1.3 APPLICATIONS IN TERMS OF CHAPTER 4 OF THE CONSTITUTION

An application under Chapter 4 of the Constitution shall be by way of a court application and the Register shall check the following:-

- That the application is supported by a commissioned affidavit setting out the facts upon which the Applicant relies for relief.
- The application shall be signed by the Applicant or his or her legal practitioner and it shall state:-
 - where relevant, the date on which direct access was granted;
 - the nature of the violation being alleged;
 - the basis upon which the Applicant seeks relief;
 - the nature of the relief which is sought;
 - a physical address at which the Applicant will accept service of all process and documents in the proceedings.
- Upon being satisfied that the application complies with the above, the Registrar shall allocate a case number which is the next number in the Index Book in chronological order for the particular year e.g. CCZ 52/ 2020.
- The Applicant is then referred to the Accounts Department for payment of the court fees and Sheriff's costs.
- After payment, the Applicant shall present receipts to the Registrar.
- The Registrar opens a record and places the receipts in the record.
- The allocated case number is endorsed on all copies of the application.
- The details of the case are then entered into the Index Book against the allocated case number.
- The Registrar issues the application by stamping on all the copies of the application and appending his or her signature.
- Nine copies of the application shall be filed with the Registrar, in addition to as many copies as there are Respondents to be served.

AFTER THE APPLICATION IS ISSUED

- The application shall be served on the Attorney General and all other interested parties.
- The Applicant shall file proof of service of the application within two (2) days of service of the application.
- The Respondents shall file a Notice of Opposition together with a Supporting Affidavit and supporting documents if any within 10 days of having been served with the application.
- Within two (2) days after filing a Notice of Opposition and an Opposing Affidavit, the Respondent shall serve

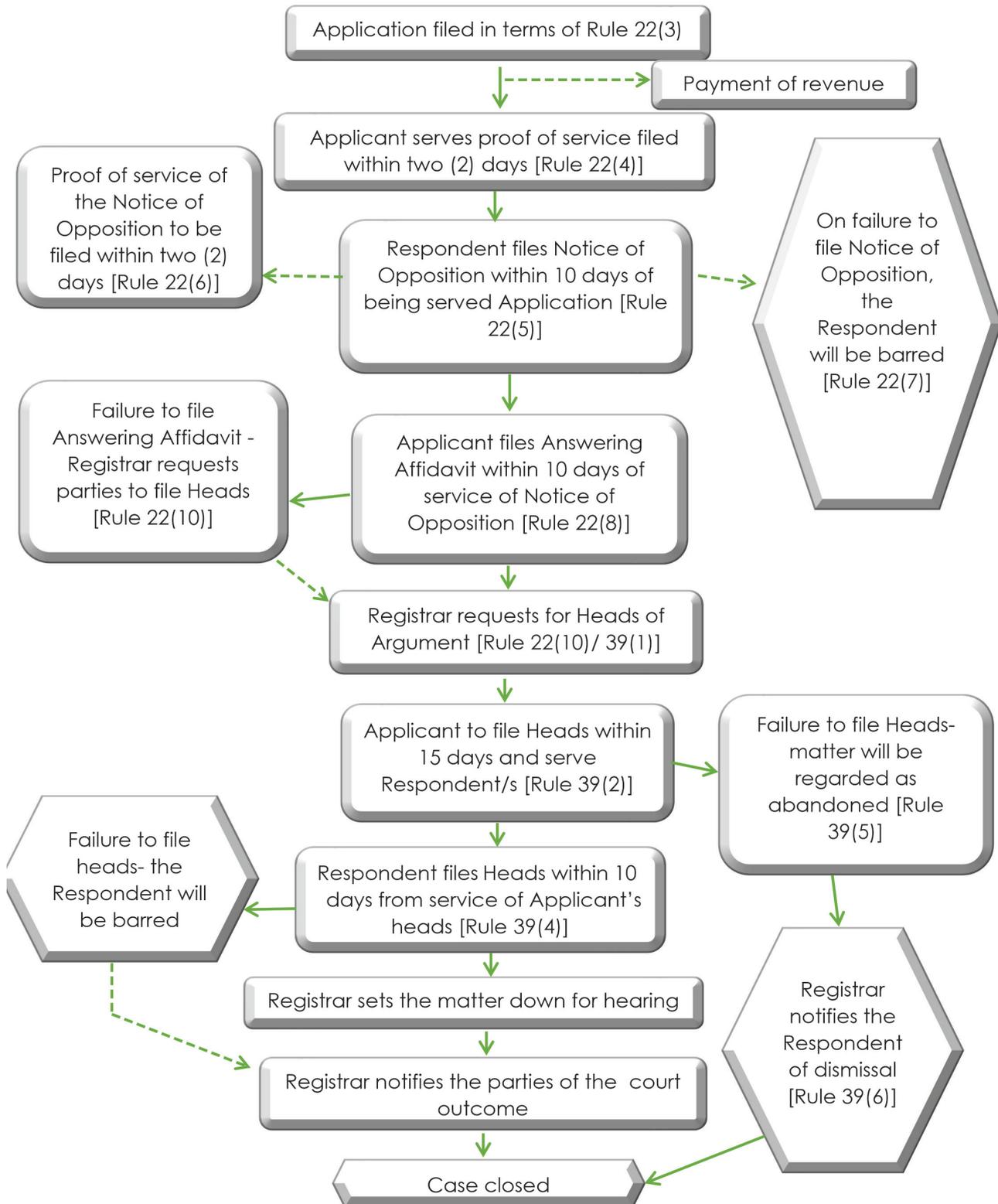


copies thereof on the Applicant and shall file with the Registrar proof of such service within two days of such service.

- A Respondent who fails to file a Notice of Opposition and Opposing Affidavit shall be barred.
- The Applicant may, within 10 days of service upon him or her of a Notice of Opposition and supporting documents, file an Answering Affidavit with the Registrar and serve it on the Respondent.
- Thereafter, no further affidavit may be filed without the leave of a Judge.
- After the filing of the Answering Affidavit, if any, the Registrar shall call upon the parties to file their Heads of Arguments.



APPLICATION IN TERMS OF CHAPTER 4 OF THE CONSTITUTION FLOW CHART



1.4 APPEAL

Before the Registrar accepts a Notice of Appeal for issuing, the following shall be cross-checked:-

- Whether the Notice of Appeal is accompanied by an order granting leave to appeal.
- All appeals require leave to appeal except an appeal in terms of Section 175 (3) of the Constitution as stipulated in Rule 21(1) (e) of the Rules.
- The Notice of Appeal shall be accompanied by the judgment or order being appealed against.
- The Registrar must take note of the date of judgment being appealed against.
- Check whether or not the time within which to file the appeal has not lapsed.
 - If leave to appeal is not necessary, the notice of appeal should be filed within 15 days after the date that the judgment appealed against was handed down.
 - If leave to appeal was granted, the date of such order shall be indicated on the Notice of Appeal.
 - If leave is necessary, the Notice of Appeal must be lodged within 10 days of the grant of leave to appeal.
- Whether the grounds of appeal are set forth concisely and in separately numbered paragraphs. Note that the appeal shall be on a constitutional matter only.
- Whether the Notice of Appeal is signed by either the Appellant or his/her Legal Practitioner.
- Whether or not there is a relief sought or prayer, whatever its form.
- Whether the address of service provided is within a 25 km radius of the office of the Registrar as stipulated in Rule 7 (1) as read with Rule 33 (1) (f) of the Rules.
- **NOTE:** If the notice of appeal does not comply with the above requirements the Registrar must not accept the notice.

CROSS-APPEAL

- When an appeal has been instituted, the Respondent shall be entitled, within 10 days of the filing of the appeal, to file a cross-appeal with the Registrar and serve it on the Appellant within two days of filing.
- The notice of cross-appeal shall be signed by the Respondent or his or her legal practitioner and shall state in respect of which appeal the cross-appeal is made and shall comply with all requirements set out for appeals above.

Upon being satisfied that the Notice complies with the above the Registrar shall:-

- Allocate a case number which is the next number in the index book in chronological order for the particular year e.g. CCZ 11/ 2020.



APPLICATION FOR LEAVE TO APPEAL

- The (Appellant/Respondent) is then referred to the Accounts Department for payment of the court fees and Sheriff's costs.
- After payment, the (Appellant/Respondent) shall present receipts to the Registrar.
- The Registrar opens a record and places the receipts in the record.
- The allocated case number is endorsed on all copies of the cross appeal.
- The details of the case are then entered into the Index Book against the allocated case number.
- The Registrar issues the cross appeal by stamping on all the copies of the appeal and appending his or her own signature.
- Eleven copies of the notice of appeal, shall be filed with the Registrar, in addition to as many copies as there are Respondents to be served.
- *(Refer to checklist attached as Annexure CC6.)*

In an application for leave to appeal, the Registrar will be obliged to cross check the following:-

- That the application is brought within 15 days as stipulated in Rule 32 (2).
- Whether the application is signed by Applicant or his or her Legal Practitioner.
- Whether the application for leave contains the following:-
 - Draft notice of appeal;
 - Decision against which the appeal is brought;
 - Statement setting out clearly and concisely the Constitutional matter raised in the decision, whatever its form;
 - The application may also contain supplementary information or submissions in terms of Rule 32 (3) (d).
- The Notice of Opposition, whatever its form, shall be filed within 10 days of service of the Application on the Respondent.
- Check whether the Notice of Opposition is signed by the Respondent or his/her Legal Practitioner.
- Where a Notice of Opposition has not been filed:-
 - The Registrar may place the matter before the Chief Justice upon the request by the Applicant.
 - The Registrar may place the matter before the Chief Justice for directions upon the expiry of the stipulated period, where no request has been made.
- The Applicant may file an Answering Affidavit within five (5) days of service of the Notice of Opposition.
- The Registrar shall place the application before the Chief Justice upon being satisfied that all Rules have been complied with.

PREPARATION OF RECORD OF PROCEEDINGS

- Once the Notice of Appeal has been filed, the following shall be done:-
- The Appellant shall prepare, or cause the preparation of, the appeal record and file it with the Registrar.
- Where a record is prepared by the Registrar, he or she shall request the parties to inspect the record and the parties shall comply with the request.
- If the Appellant or his or her legal practitioner does not inspect the record within 10 days after being requested to do so, or within any further time granted by the Registrar the Appellant shall be deemed to have abandoned his or her appeal; and the Registrar shall notify the respective parties accordingly.

- The appeal record shall consist of the judgment of the court from which the appeal is noted, together with all the documentation filed by the parties in that court and all the evidence adduced in the proceedings which may be relevant to the issues for determination.
- The parties shall endeavour to reach an agreement on what should be included in the record and, in the absence of such agreement, any party may apply to the Chief Justice by way of a chamber application for directions to be given in regard to the compilation of the record.
- All copies of the record filed with the Registrar shall be certified as correct by the Registrar of the court appealed from and such records shall comply with provisions of Rules more particularly that:-
 - all documents shall be on A4-size paper of good quality, unless the nature of the document renders that impracticable;
 - documents shall be clear and easily legible, typewritten or printed in black ink, and double-spaced, on only one side of the paper, with a margin of not less than fifty millimetres being left on the left-hand side of each sheet;
 - documents shall be legible documents that were typed or printed in their original form. Documents such as cheques and similar documents, shall not be retyped and clear photocopies on A4-size paper shall be provided instead;
 - all pages shall be numbered clearly and consecutively, and every tenth line on each page shall be numbered and the pagination used in the court *a quo* shall be retained where possible;
 - bulky records shall be divided into separate conveniently-sized volumes of approximately 150 pages each; shall be securely bound in book format to withstand constant use and shall be so



FILING OF HEADS OF ARGUMENT RULE - RULE 39 (APPEALS, REFERRALS AND COURT APPLICATIONS)
(Refer to Annexure CC2 and CC3 for templates.)

bound that, upon being used, they will lie open without manual or other restraint;

- all records shall be securely bound in suitable covers displaying the case number, names of the parties, the volume number and the numbers of the pages contained in that volume, the total number of volumes, the court and the names of the legal practitioners of the parties;
- if the record consists of more than one volume, the first volume shall contain an index of all the volumes so prepared, and each volume shall also have an index of the documents contained therein;
- the volumes referred to above shall be consecutively numbered and shall state the number of the volume in relation to the other volumes so prepared and filed;
- the binding required by Rule 43 (3)(i) shall be sufficiently secure to ensure the stability of the papers contained within the volume and, where the record consists of more than one volume, the number of each volume and the number of the pages contained in the volume shall appear on the upper third of the spine of the volume.

- After receiving the record that complies with the above the Registrar shall then call for Heads of Arguments.

After all pleadings have been filed or the record of proceedings is received from the court *a quo* the Registrar should abide by the following steps:-

- Where an Appellant or Applicant is represented by a legal practitioner, the Registrar shall send written notification to that legal practitioner, calling upon the legal practitioner to file and serve Heads of Argument on the other party within 15 days after the date of such notification.
- Within 15 days after being called upon to file Heads of Argument, or within such longer period as a Judge may for good cause allow, the Applicant's legal practitioner shall file with the Registrar a document setting out the main heads of his or her argument, together with a list of authorities to be cited in support of each head, and immediately thereafter shall serve a copy on the Respondent or the Respondent's legal practitioner.
- Where a Respondent in any matter before the court is represented by a legal practitioner, that legal practitioner shall, within 10 days of service upon him or

SETTING DOWN OF APPEAL

her of the Applicant's Heads of Argument, file with the Registrar a document setting out the main heads of his or her argument, together with a list of authorities cited in support of each head, and immediately thereafter shall serve a copy on the Applicant or his or her legal practitioner;

- in the event that the Respondent's legal practitioner has not been served with the Applicant's Heads of Argument, whether because the Applicant is not represented or for any other cause; or
- the matter is set down for hearing less than 15 days after the Respondent's legal practitioner has been served with the Applicant's or Appellant's Heads of Argument;
- The Respondent's legal practitioner shall file his or her Heads of Argument with the Registrar and serve a copy on the other party as soon as possible and, in any event, not less than four (4) days before the hearing of the matter. A Respondent who has failed to file Heads of Argument shall be barred and the court or judge may deal with the matter on the merits.
- If the Registrar does not receive Heads of Argument from an Appellant who is represented by a legal practitioner, the matter shall be regarded as abandoned and shall be deemed to have been dismissed.
- Where a matter is deemed to have been dismissed, the Registrar shall forthwith notify the Respondent of that fact and, in the case of an appeal, shall also notify the Registrar or Clerk of the Court whose decision is being appealed against.
- The matter may however be reinstated upon successful application for reinstatement.

Once the above requirements have been met, the Registrar shall, within 30 days and after consulting the Chief Justice, allocate a date for the case to be heard.

- The Registrar shall then give notice to the parties of the date of the hearing.
- The notice shall not be less than two (2) weeks, unless the parties agree to a shorter period.
- The Registrar can alter the set-down date after consultation with the parties for good cause and give notice of such alteration to the parties.
- All notices relating to set-down shall be delivered by the Registrar to the party's legal practitioners or the last known address of a party who is not legally represented.



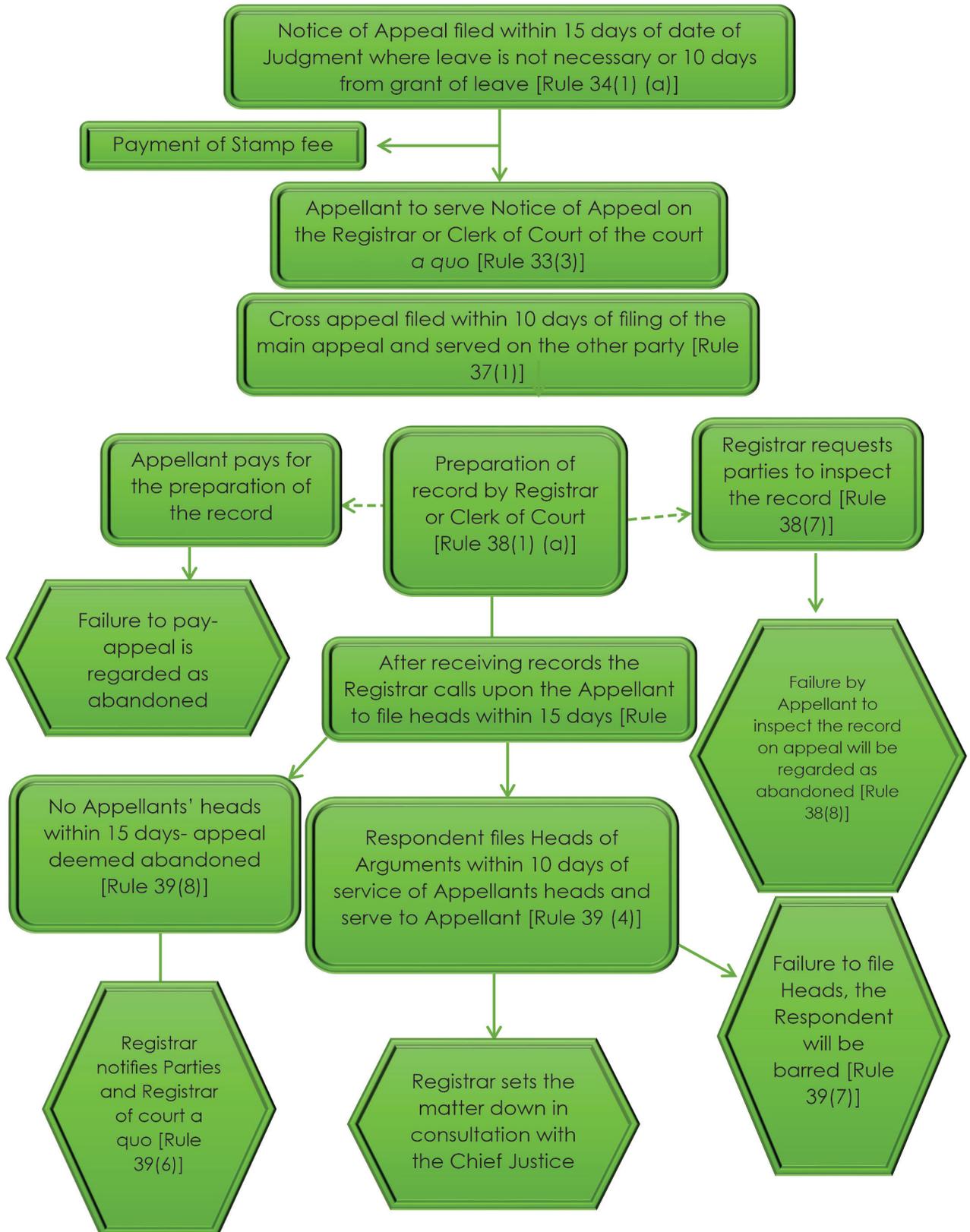
**SETTING DOWN OF
APPEAL GENERAL:
SECURITY FOR COSTS**

**GENERAL: PROOF
OF SERVICE**

- The Registrar must ensure security for costs is furnished within one month of the filing of the Notice of Appeal with the Registrar in terms of Rule 42 (3) in the following scenarios:-
 - Where the Respondent demands security; or
 - Where the Appellant has appealed directly to the court in terms of Rule 21 (1) (e).
- Ensure that where any document is to be served on another party as dictated by the Rules or any other law, within two (2) days of service, the party must file a certificate of service with the Registrar in terms of Rule 9 (5).
- Where such proof has not been filed with the Registrar for any reason in the manner and time prescribed, the matter shall be deemed to be abandoned for that reason.
- The Registrar shall notify the parties that the matter has been deemed abandoned.



APPEALS TO THE CONSTITUTIONAL COURT FLOW CHART



**1.5 DISPUTE
RELATING TO THE
ELECTION TO THE
OFFICE OF THE
PRESIDENT OR VICE
PRESIDENT (RULE 23)**

Such application shall be by way of a Court Application.

Court Application

The application shall be filed with the Registrar and served on the Respondents within 7 days of the date of declaration of the result of the election (Rule 23 (2)).

- The application shall be supported by an affidavit setting out the facts upon which the Applicant relies for relief.

Notice of Opposition

- Any Respondent who wishes to oppose the relief sought shall file with the Registrar his/her Notice of Opposition and Opposing Affidavit and serve such notice on the Applicant within three (3) days of being served with the application, failure of which the Respondent shall be barred [Rule 23(3)].

Answering Affidavit

- Within three (3) days of receiving the Notice of Opposition, the Applicant may file the Answering Affidavit with the Registrar and serve the same on the Respondent [Rule 23 (4)].

Heads of Argument

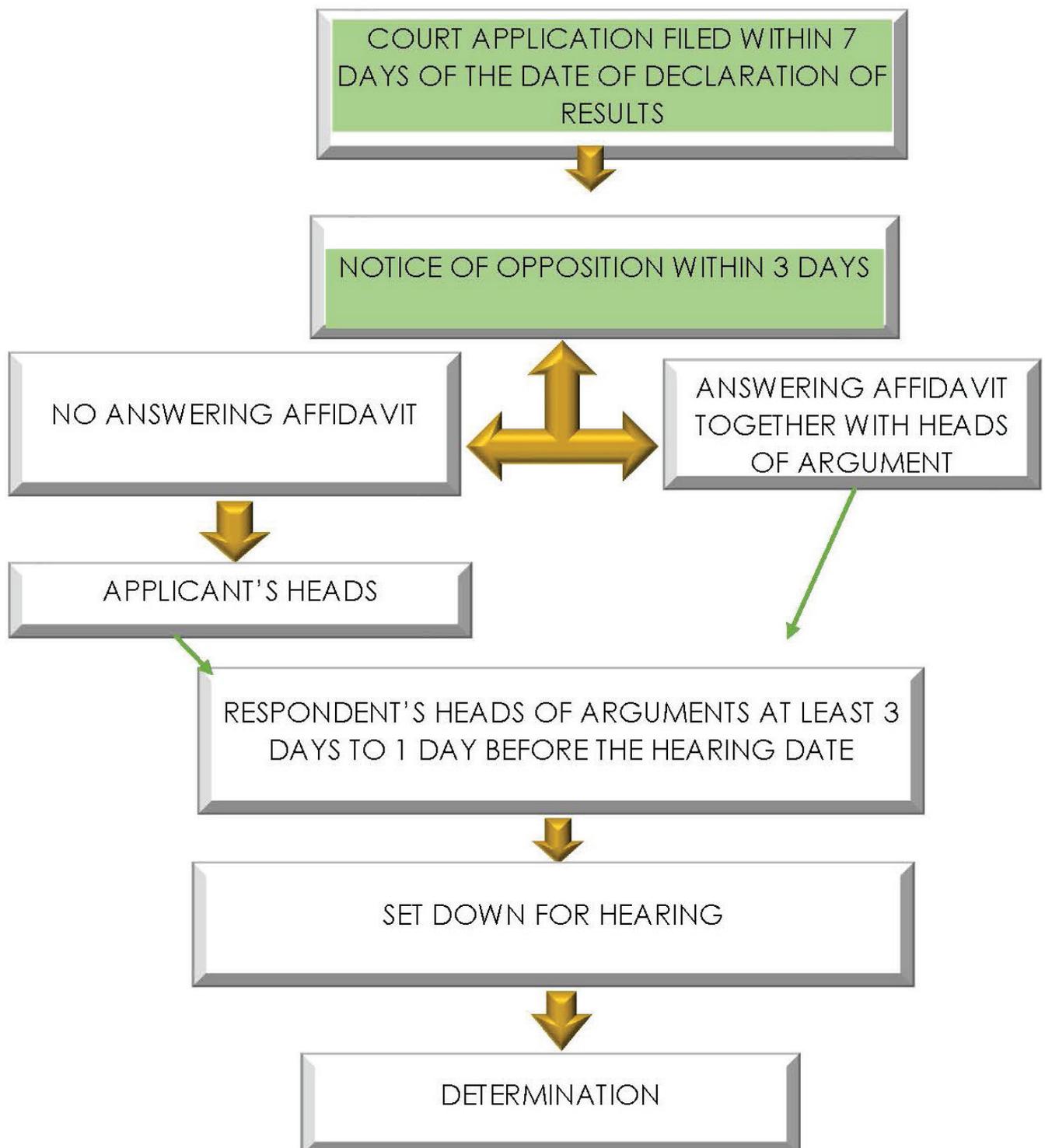
- The Applicant shall file Heads of Argument simultaneously with his/her Answering Affidavit and serve on the Respondent.
- Where Answering Affidavit has not been filed, the Applicant shall file heads with the Registrar and serve on the Respondent at least three (3) days before the hearing date [Rule 25(5)].
- Respondent's Heads of Argument shall be filed with the Registrar and served on the Applicant within three (3) days of receiving the Applicant's heads, and in any case, not later than one day before the application is heard [Rule 23(6)].
- Self-actors shall not be required to file Heads of Argument.
- The Registrar shall set the matter down for hearing within 14 days of filing of the application.

Determination

- After the hearing, the court can issue an order, directions, and judgment or reserve its judgment.
- The Registrar shall notify parties to collect their determination upon paying the requisite fees.



APPLICATION FOR A DISPUTE RELATING TO THE ELECTION TO THE OFFICE OF THE PRESIDENT OR VICE PRESIDENT FLOW CHART



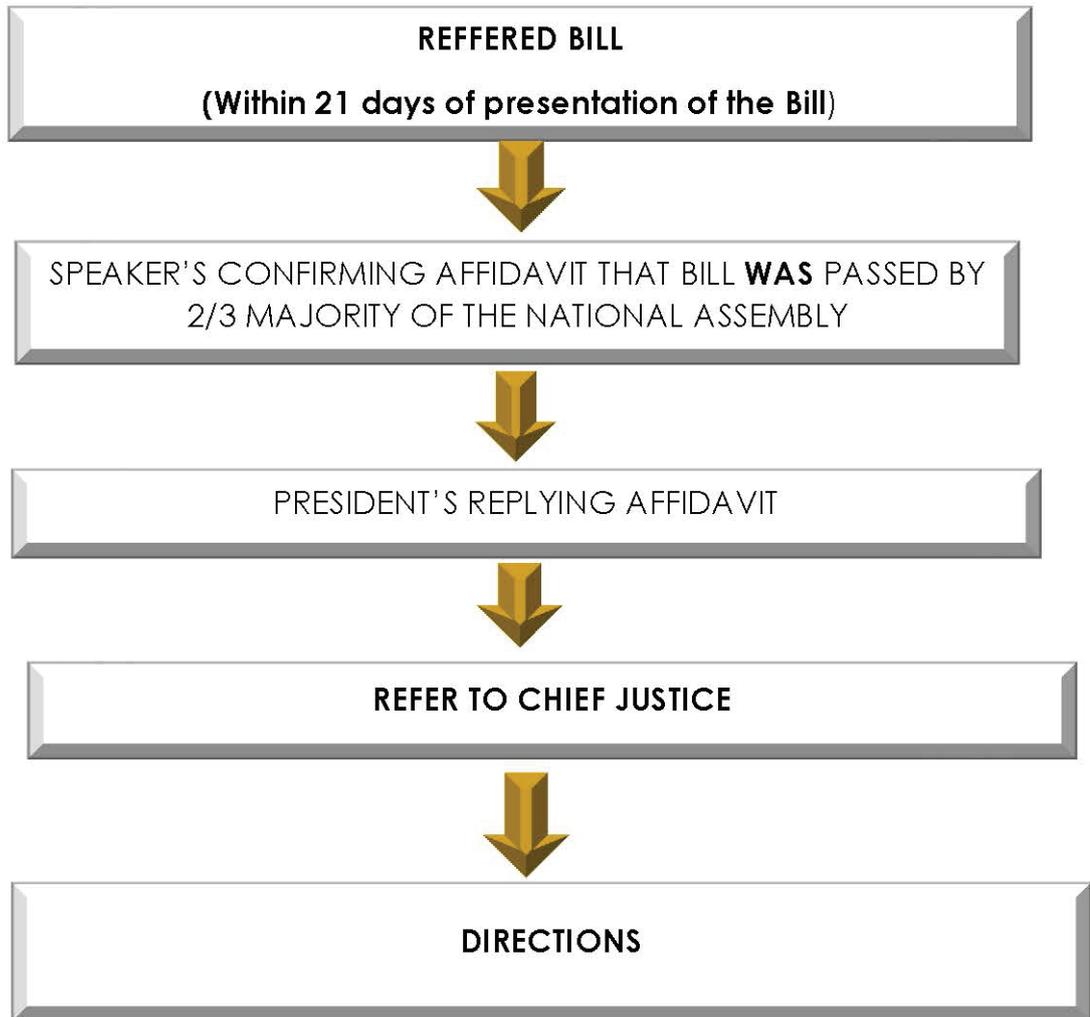
1.6 RESERVATIONS REGARDING A BILL - RULE 25(1)

This is a referral of a Bill by the President in terms of Section 131(8) (b) of the Constitution.

- The referral shall specify:-
 - a) The provision(s) of the Bill in respect of which the President has reservations.
 - b) The Constitutional provision(s) relating to such reservations.
 - c) Grounds or reason for such reservations.
- The referral shall be filed with the Registrar within twenty-one days of the Bill having been presented to the President (Section 131(7) of the Constitution).
- It shall be served on the Speaker within two days of filing with the Registrar.
- The Speaker shall, within twenty-one days, file with the Registrar an affidavit confirming that the Bill was passed by two-thirds majority of the total membership of the National Assembly together with the other submission regarding the constitutionality of the Bill.
- The Speaker, within two days of filing such affidavit with the Registrar, shall serve it on the President at the President's Office.
- The President may, within two days of receiving the affidavit, file with the Registrar a replying affidavit.
- The replying affidavit shall be served on the Speaker. Upon receipt of the replying affidavit from the President, the matter shall be dealt with in accordance with the directions given by the Chief Justice [Rule 25(6)].



REFERRED BILL FLOW CHART

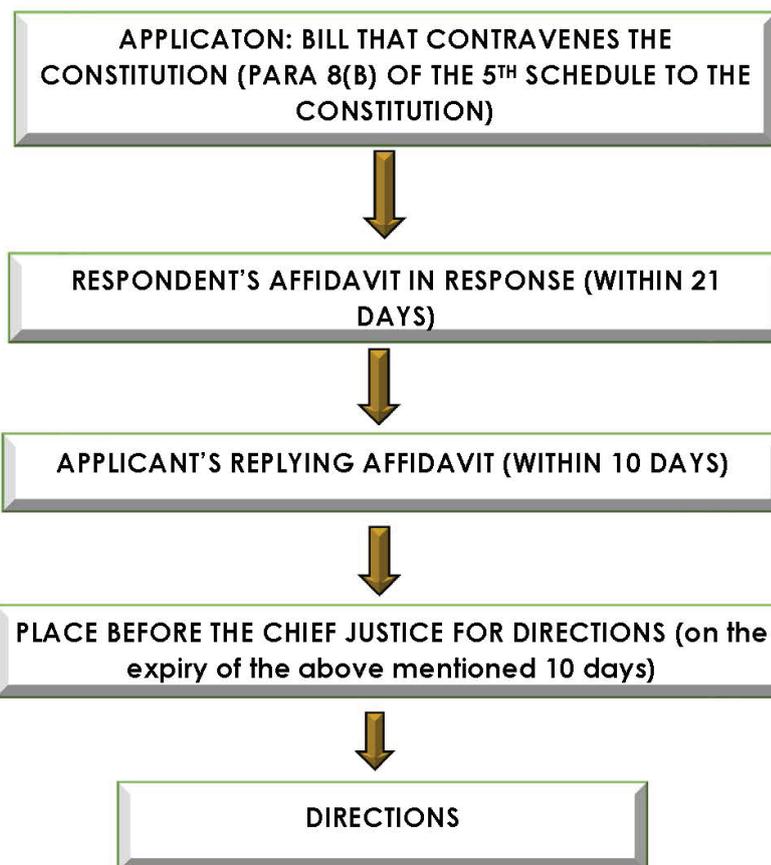


COURT APPLICATION FOR BILL THAT CONTRAVENES THE CONSTITUTION - [RULE 26]

- The court application shall be filed by the Vice President or Minister in terms of paragraph 8(6) of the Fifth Schedule to the Constitution.
- The application shall be supported by an affidavit.
- The application shall be filed with the Registrar within the period of 14 days as specified in paragraph 8(b) of the Fifth Schedule to the Constitution.
- The Applicant shall cite the Speaker or the President of the Senate, as the case may be, as Respondents.
- The Respondent, within 21 days of being served with the application, shall file with the Registrar an affidavit in response.
- The Respondent shall serve the responding affidavit and attachments on the Applicant within 2 days of filing such affidavit.
- The Applicant shall file the replying affidavit within 10 days of receiving the responding affidavit. Upon the expiry of the 10 days, the Registrar shall place the application before the Chief Justice for directions.



FLOW CHART- COURT APPLICATION FOR BILL THAT CONTRAVENES THE CONSTITUTION- [RULE 26]

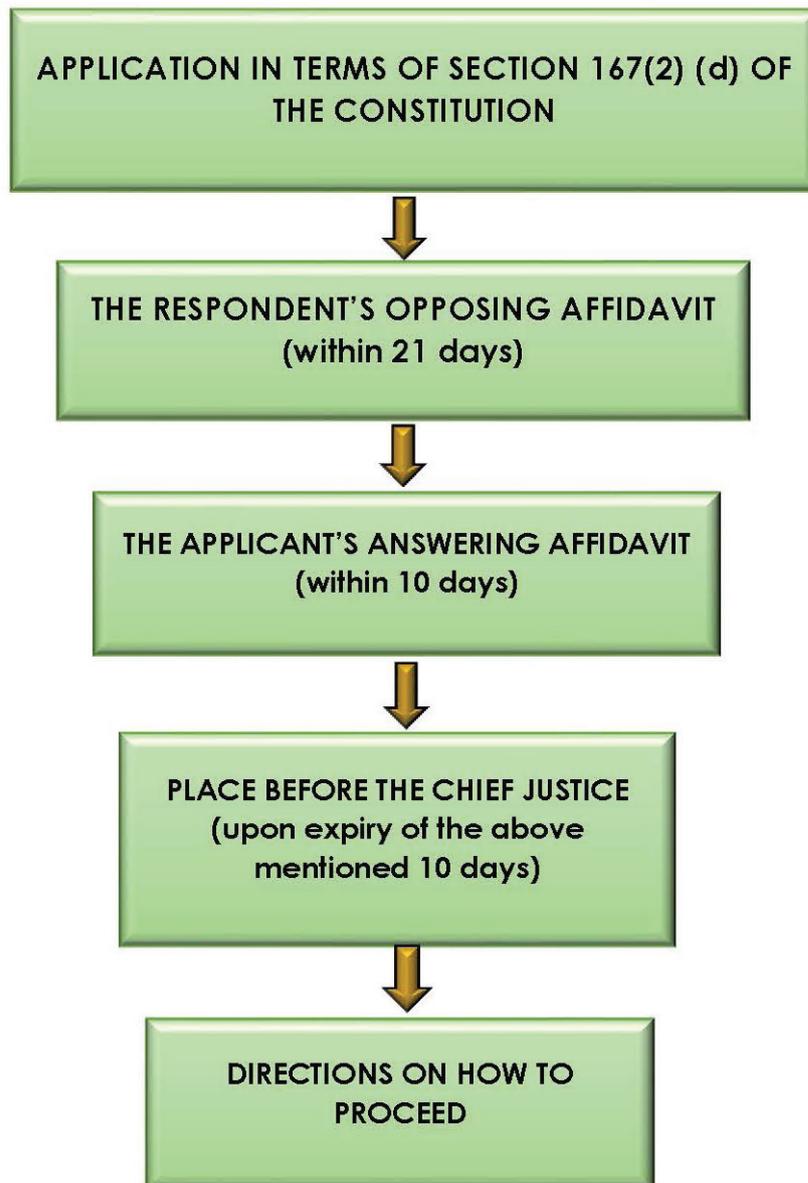


1.7 COURT APPLICATION - FAILURE TO FULFIL A CONSTITUTIONAL OBLIGATION-RULE 27

- The court application shall be in terms of Section 167 (2)(d) of the Constitution.
- The application shall be supported by an affidavit setting out the Constitutional obligation in question and what Parliament or the President has failed to do.
- The application shall be filed with the Registrar and served on all interested parties within 2 days of filing [Rule 27 (2)].
- The Respondent shall file his/her notice of opposition and affidavit within twenty-one days of receiving the application.
- The Opposing Affidavit shall be served on the Applicant within 2 days of filing.
- The Applicant shall file his/her Answering Affidavit within 10 days of receiving the Notice of Opposition.
- The Answering Affidavit shall be served on the Respondent(s) within two days of filing with the Registrar.
- Upon the expiry of the above mentioned 10 days, the Registrar shall place the application before the Chief Justice for directions.



COURT APPLICATION- FAILURE TO FULFIL A CONSTITUTIONAL OBLIGATION- RULE 27 FLOW CHART



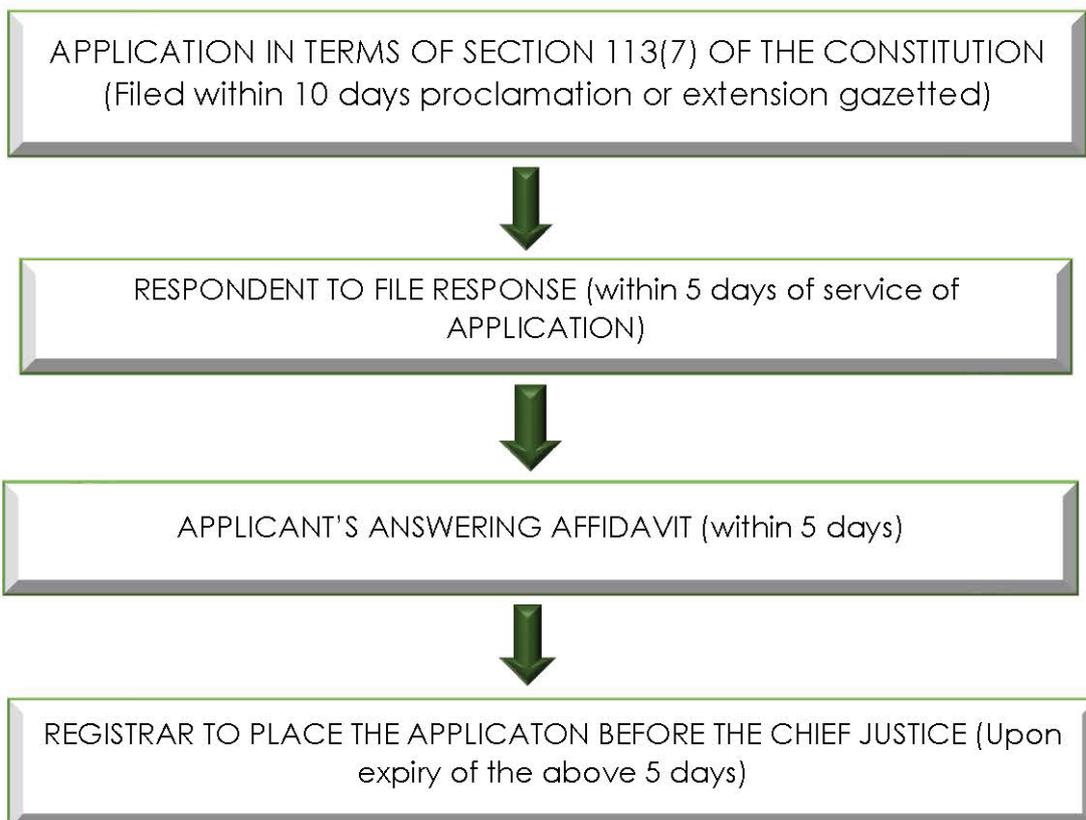
1.8 COURT APPLICATION FOR VALIDITY OF DECLARATION OF STATE OF PUBLIC EMERGENCY - RULE 28

- The application is made in terms of Section 113(7) of the Constitution.
- The court application shall be supported by an affidavit and grounds on which Applicant states, how he or she is an interested party.
- The affidavit shall also contain the grounds on which he or she alleges that the declaration of a state of Public Emergency or its extension is invalid.
- The application shall be filed with the Registrar within 10 days of the proclamation of the declaration; or extension of the declaration of the same was published in the Gazette [Rule 28(1)].
- The application shall be served on the Respondent(s) within 2 days of filing with the Registrar.

- Within 10 days of receiving the application the Respondent shall file a Responding Affidavit with the Registrar.
- The Responding Affidavit shall be served on the Applicant within 2 days of filing the same with the Registrar.
- The Applicant may file an Answering Affidavit with the Registrar within 5 days of receiving the Respondent's response.
- The copy of the Answering Affidavit shall be served on the Respondent within 2 days of filing it with the Registrar.

Upon the expiry of the five days mentioned above, the Registrar shall place the application before the Chief Justice for Directions.

COURT APPLICATION FOR VALIDITY OF DECLARATION OF STATE OF PUBLIC EMERGENCY FLOW CHART

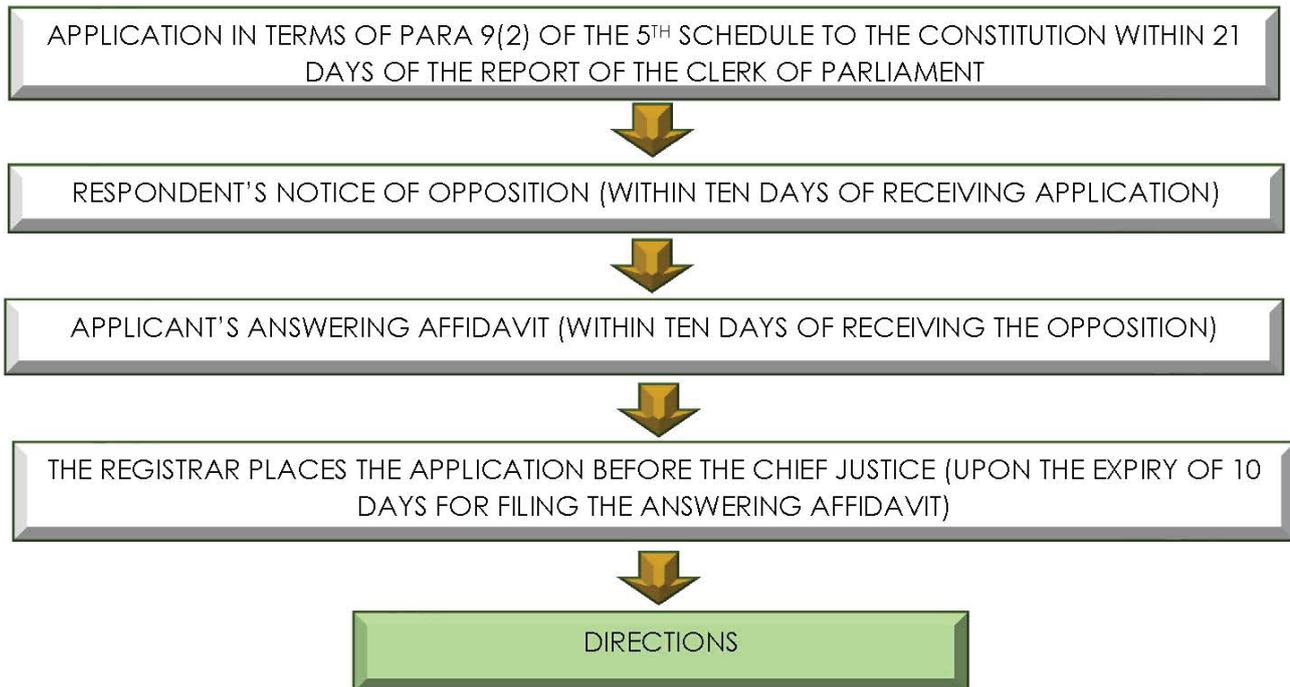


**1.9 COURT
APPLICATION FOR
DECLARATION OF
INVALIDITY OF
STATUTORY
INSTRUMENT
- RULE 29**

This court application shall be-

- In terms of paragraph 9(2) of the 5th Schedule to the Constitution.
- The application shall be accompanied by a Supporting Affidavit specifying the following:-
 - a) The relevant provision(s) of the Constitution relied upon for such challenge.
 - b) The provision(s) of the Statutory Instrument being challenged.
 - c) The grounds upon which the authority considers that the Statutory Instrument is in accordance with the Constitution.
 - d) Statements by the Attorney General or his/her representative may be attached.
 - e) The relief, including any interim relief sought.
- The application shall be filed with the Registrar within 21 days of the resolution of the Senate/National Assembly being reported by the Clerk of Parliament.
- The application shall cite the Speaker or the President of the Senate, as the case may be, as the Respondents.
- The application shall be served on the Respondent within 2 days of filing with the Registrar.
- The Respondent shall, within 10 days of receiving the application, file its Opposing Affidavit.
- The Opposing Affidavit shall be served on the Applicant within 2 days of filing it with the Registrar.
- The Applicant may, within 10 days, file its Answering Affidavit.
- The Answering Affidavit shall be served on the Respondent within 2 days filing it with the Registrar.
- Upon expiry of the period allowed for filing the Answering Affidavit, the Registrar shall place the application before the Chief Justice for directions.

COURT APPLICATION FOR DECLARATION OF INVALIDITY OF STATUTORY INSTRUMENT FLOW CHART

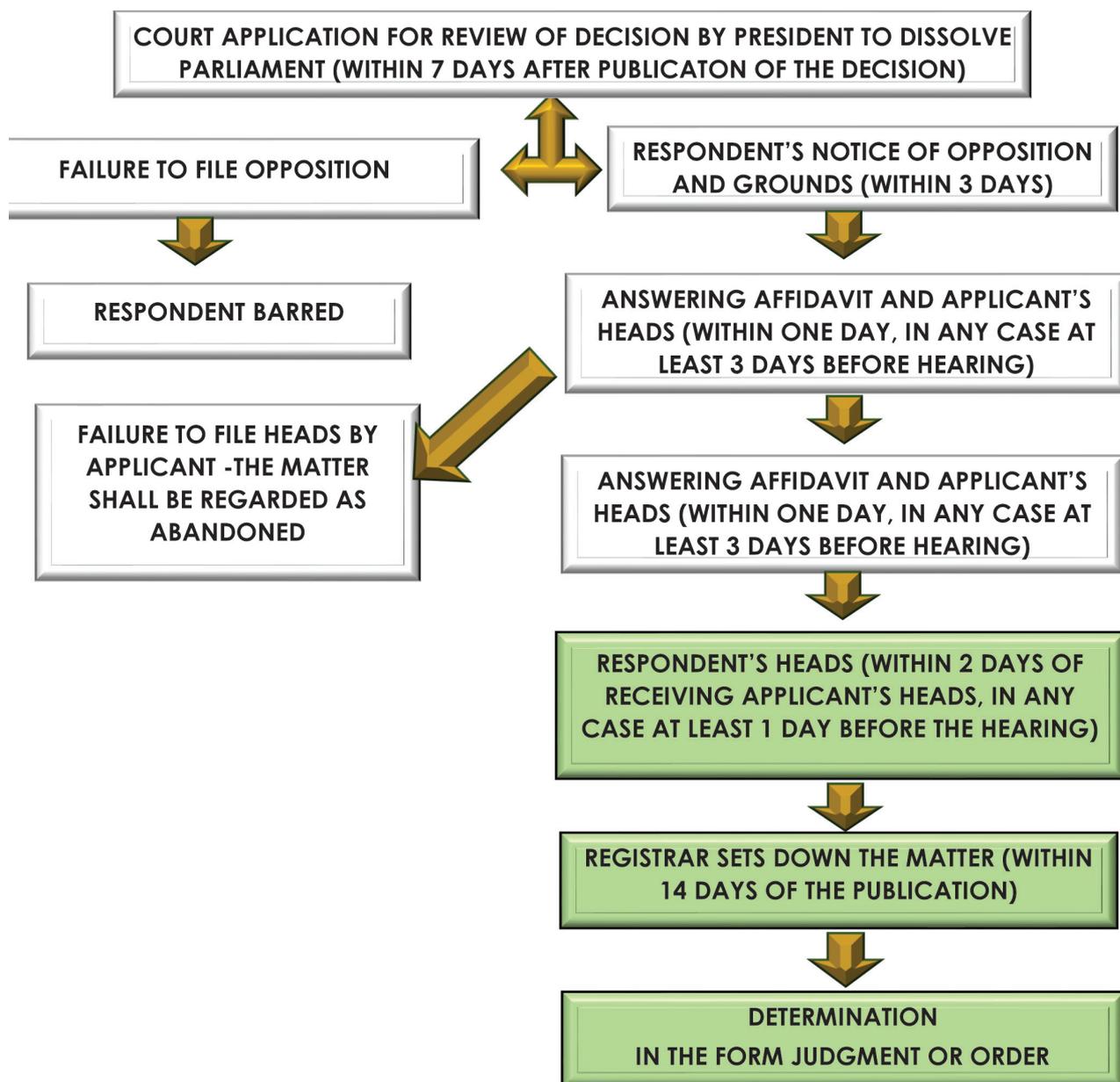


1.10 COURT APPLICATION FOR REVIEW OF DECISION BY PRESIDENT TO DISSOLVE PARLIAMENT - RULE 30

- It is a Court Application by a Member of Parliament (MP) in terms of Section 143 (4) of the Constitution for a review of a decision by the President to dissolve Parliament.
- The Court Application shall be supported by the Supporting Affidavit setting out the grounds upon which the review of the decision is sought.
- The President shall be cited as the 1st Respondent and the Attorney General as the second Respondent.
- It shall be filed with the Registrar within 7 days of the publication of the decision.
- The application shall be served on the Respondents within 2 days of filing with the Registrar [Rule 30(2) (c)].
- If Respondent wishes to oppose, s/he shall file and serve his/her Notice of Opposition and grounds on which he/she opposes within 3 days of receiving the application, failing which he/she shall be barred [Rule 30(3)].
- The Applicant may, within 1 day of receiving the Notice of Opposition, file and serve an Answering Affidavit.
- The Applicant shall simultaneously file and serve the Answering Affidavit and the Heads of Arguments.
- Where Applicant do not file an Answering Affidavit, the Heads of Argument shall be filed and served at least 3 days before the hearing of the application.

	<ul style="list-style-type: none"> ■ The Respondent shall file and serve the Respondent's Heads of Argument within 2 days of service of Applicant's Heads of Argument on him/her, and in any case, not later than one day before hearing. ■ Where an Applicant fails to file Heads of Argument, the matter shall be regarded as abandoned. ■ Notwithstanding sub rule (3) and (7) of Rule 30, the Registrar shall set the matter down for determination on the merits within 14 days of publication of the decision to dissolve Parliament. ■ After the hearing, the court can issue an order, directions, and judgment or reserve its judgment. ■ The Registrar shall notify parties to collect their determination upon paying the requisite fees.
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REVIEW OF DECISION BY PRESIDENT TO DISSOLVE PARLIAMENT FLOW CHART



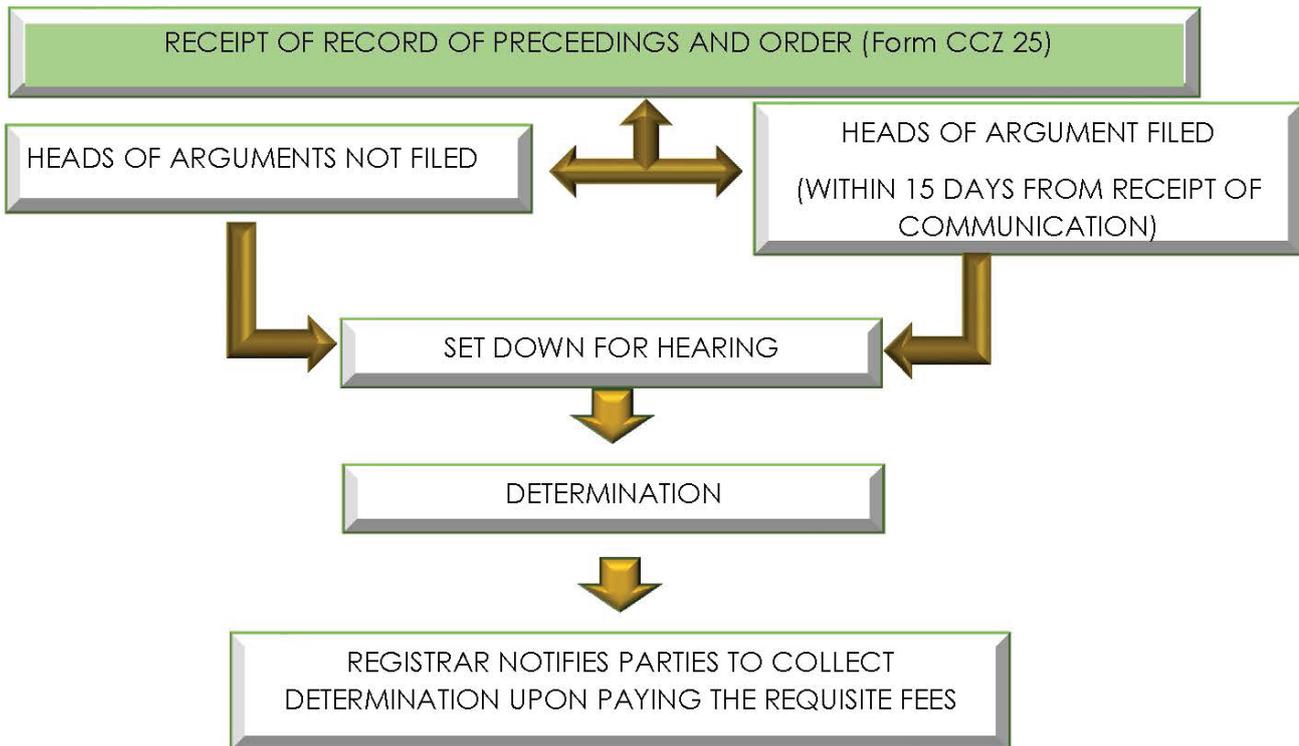
1.11 CONFIRMATION OF ORDER OF CONSTITUTIONAL INVALIDITY – RULE 31

- Within 14 days from the making of an order of constitutional invalidity as specified in section 175(1) of the Constitution, the Registrar or Clerk of a Court making such an order shall file with the Registrar a copy of the record of proceedings including the court order for confirmation in form CCZ5.
- Upon receipt of such record, the Registrar shall call upon the parties to the proceedings to file Heads of Argument in accordance with Rule 39, after which the matter shall be set down in terms of Rule 13.

NOTE: Matter will be set down with or without Heads of Argument.

- After the hearing, the court can issue an order, directions, and judgment or reserve its judgment.
- The Registrar shall notify parties to collect their determination upon paying the requisite fees.

CONFIRMATION OF ORDER OF CONSTITUTIONAL INVALIDITY FLOW CHART



1.12 APPLICATION FOR CONDONATION AND EXTENSION OF TIME WITHIN WHICH TO APPEAL –RULE 35

The application shall-

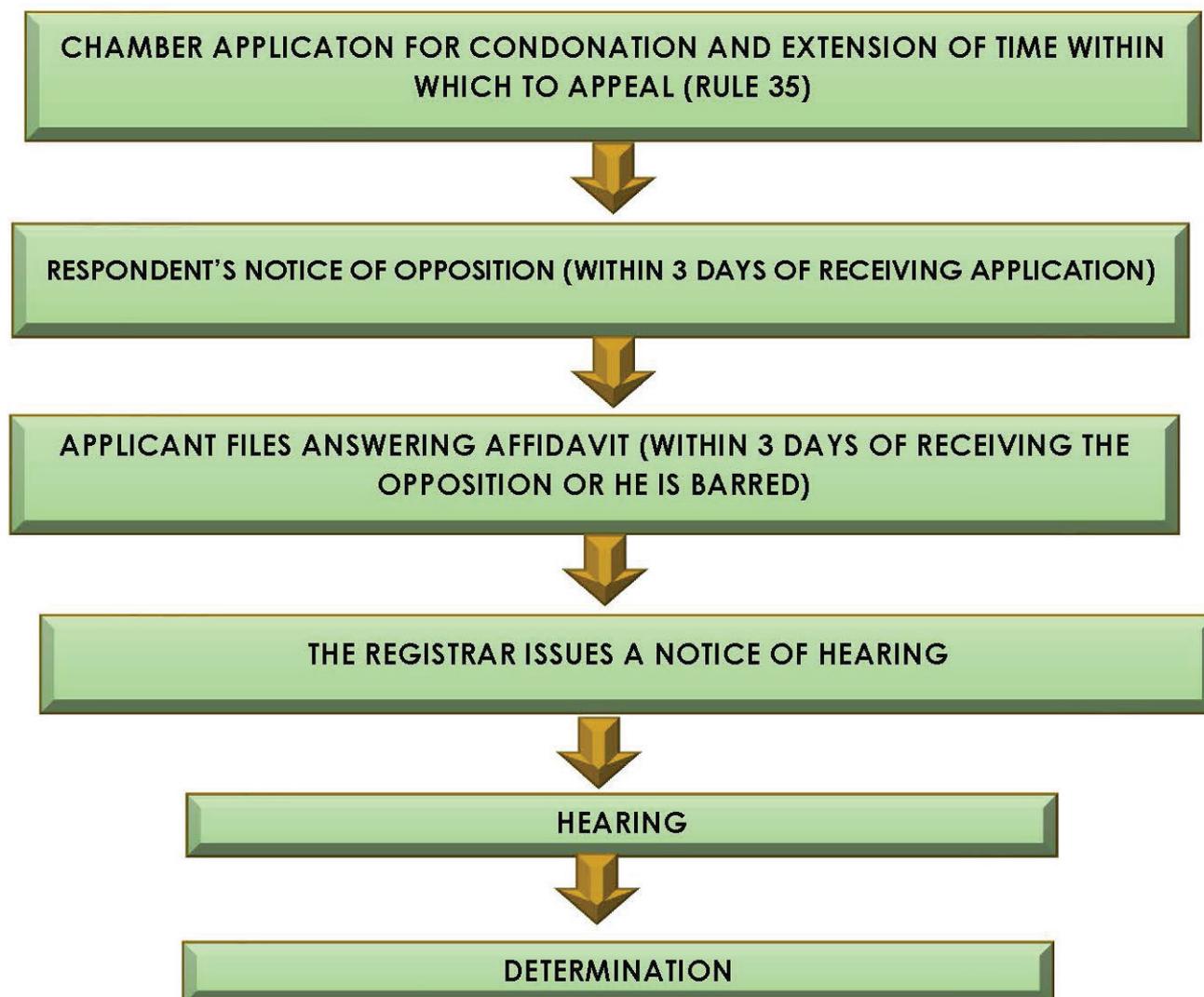
- Be in form of a chamber application and shall be signed by the Applicant or his/her legal practitioner and shall be accompanied by a copy of the judgment against which it is sought to appeal.
- Have attached to it a draft notice of appeal compliant with Rule 33.
- Be accompanied by an affidavit setting out the facts upon which the Applicant intends to rely and why the appeal or application for leave to appeal was not filed on time.
- Be filed with the Registrar and served on the Respondent within the prescribed time for chamber applications in terms of Rule 20(2) i.e. served within 2 days.
- The Respondent shall file an Opposing Affidavit within 3 days of service of the application.
- The Applicant may file an Answering Affidavit within 3 days from receipt of Opposing Affidavit.
- When all pleadings have been filed, the Registrar shall give notice of the date of hearing to the parties in writing.

DETERMINATION

- After the hearing the court can issue an order, directions, or judgment or reserve its judgment.
- The Registrar shall notify parties to collect their determination upon paying the requisite fees.



APPLICATION FOR CONDONATION AND EXTENSION OF TIME WITHIN WHICH TO APPEAL FLOW CHART



1.13 *INFORMA PAUPERIS* PROCEDURE

1.14 TAXATION (RULE 48)

Any indigent or person of limited means may apply to the Registrar for legal assistance.

- If it appears to the Registrar that the Applicant may be a person who cannot afford the services of a legal practitioner, the Registrar shall refer the Applicant to a legal practitioner selected from a roster of names furnished by the Law Society of Zimbabwe or Legal Aid Directorate.
- Costs shall be taxed by a Registrar. Costs allowed are such costs, charges and expenses which appear to have been necessary or proper for the attainment of justice.
- A bill of costs has to contain costs for services actually rendered by a legal practitioner in his capacity as such.

1.15 MAINTENANCE OF THE REGISTRY

- Party and party costs and legal practitioners and client costs - Tariff of legal practitioner's fees instructive. *(Note that the tariff changes from time to time and the current one at each given period should be used)*
- A party aggrieved by the decision of a taxing officer may give notice of review to the Registrar and opposite party within 15 days of the taxation.
- The matter will be set down for hearing by the Judge after the Registrar has written a report stating reasons for his decision.

Filing

- All files in the Registry must be properly classified.
OFFICE
Registrar to allocate clearly labelled shelves in the registry office e.g. Pending Appeals, Postponed or Removed from the Roll, Court Applications, Chamber Applications, Finalised Matters or Reserved Judgments.
- All files are to be filed in their properly labelled shelves.
- Pending matters awaiting Heads of Argument are to be filed and labelled in a manner that clearly denotes the due dates for the filing of Heads of Argument from the first to the last date of the month.
- All records must be filed correctly in their respective slots soon after any attendance.
- Pending files should not be sent to National Archives even if such a file is within the range of files due for archiving. Only completed files shall be sent for archiving.
- A register of requested files shall be completed on the date each file is requested from National Archives.

Statistics

A daily court outcome report shall be compiled. In addition, the Registrar shall compile and update accurate monthly and quarterly statistics of all cases-

- Received;
- Finalised;
- Whose judgments have been reserved.

(Refer to Annexures CC4 & CC5 for templates.)

GENERAL ISSUES

Court Rolls and Cause Lists

- The Registrar should prepare a concise Court Roll before the beginning of every court term.
- The Court Roll should be approved by the Head of Court and distributed to all Judges and various departments in the registry.
- Further, a weekly Cause List should be prepared for the cases being heard for that week.



- The Cause List should contain all case details, the court and location as well as the Judges presiding over the cases.
- All Cause Lists must be placed before the presiding Judges, displayed at the court and the JSC website for the public and court users' information.

Fees

All Constitutional Court fees must be paid before any application is processed or an order is issued to a litigant. Receipt for the fees paid must be attached in the inside cover of the record.

NB: An exception applies where a party has been granted leave to proceed *in forma pauperis* and those who are in custody.

Photocopying of Documents

Where a litigant wants to photocopy a document filed with the Registrar's Office, they have to pay the relevant copy charge and the copy shall be photocopied in the office.

Filing

- All pleadings, correspondence or mail received shall be filed in the relevant file on date of receipt.

Movement of files

- Where files move from one office to another, this must be done by members of staff only.
- Clients are not supposed to be given files for transmission to other offices.
- There must be movement registers for files.
- Members of staff are to sign for the file they receive and the person who handed over the file must also sign in the registers.
- All documents filed or processes issued must be legible, including photocopies or any documents lodged as Annexures.
- Ensure that the correct case number is inserted on the file cover and on the copies of the application or process lodged and issued.
- Service of court process must be effected on each Respondent or per the specific address disclosed in the appeal or application.
- Certificate of service must be filed for each Respondent cited.

Signing of Orders

Before appending a signature on orders made by the court, the Registrar must cross-check the following:

- That the terms on the typed order correspond to the terms on the granted order signed by the Judge.
- All details stated in the signed order are accurate and there is no variance.
- Make sure the typed order reflects the correct case number.
- The name of the Judge must be correct. Ensure that the order is authentic.

Management of Judgments and Orders

- Where a court issues an order or judgment, the Registrar must immediately notify the parties to uplift the order or judgment.
- The order or judgment must be scanned into the soft copy record on the date of its handing down and issuance.
- Upon uplifting the same, the parties must acknowledge receipt of such order or judgment through the register created for that purpose.
- The order or judgment is uplifted after payment of requisite fees.
- The Registrar must update the Index Book with the outcome before the file is referred to the registry for filing.
- Matters with final orders and judgment should be filed with appeal records being sent back to the court of origin with copies of the order or judgment.

Orders with Specific Directives

- The Registrar is obliged to read each and every order coming out of court and fully comprehend the contents thereof and then act according to the dictates of the order.
- A register of such orders must be kept and continuously updated to comply with the orders by court.
- The Registrar must constantly liaise with Registrars of lower courts for compliance with orders to act in a specific way e.g. reconstruction of records, remittals, fast-tracking of matters and preparation of records.
- Matters postponed *sine die* or removed from the roll shall be dealt with in terms of Practice Direction 3/2013.

Refer to Annexure 'A' for Practice direction 3/2013.

Telephone

- The telephone shall be answered within three (3) rings.
- Members of staff are to restrict time spent on the

telephone and are to observe telephone manners by being calm and professional.

- Keep promises made to clients for example checking for the file so that no excuses are made when client phones for the second time.

Public Relations

- Handle inquiries professionally and understand issues raised by clients before taking any action.
- If there is a delay in locating a file, notify the client and offer an apology.
- A culture of respect, teamwork and professionalism shall always guide members of staff in their interaction with clients.

Response to queries and complaints

All letters written to the Registrar should be responded to by the Registrar and the response should be made within a period of three (3) days.

Judgments

Parties to the case must be advised when judgment is being delivered by the Honourable Judges or when outstanding reasons for judgment are ready to be uplifted. The Registrar must ensure that this is complied with always.

Missing Records

Where any court record goes missing, that fact should be brought to the attention of the Registrar by way of a memorandum. The Registrar is required to ensure that diligent search is carried out and advise the parties accordingly.

SUPREME COURT

2. GENERAL REQUIREMENTS FOR APPEALS, APPLICATIONS AND CHAMBER APPLICATIONS

Form of appeals and applications

All processes to be issued at the Supreme Court must comply with the Rules of the court. Before accepting any process, the Registrar must check if:

- Process is typed in font size in terms of the Rules and properly spaced (double spaced with minimum font Size 12);
- All documents are clear and easily legible;
- Where documents are not in the English language, an English translated version should accompany such documents.
- The documents are indexed, paginated and divided into conveniently sized volumes of approximately 150 pages which are consecutively numbered and shall state the number of the volume in relation to the other volumes so prepared and filed with the first volume containing an index of all the volumes so prepared **(Rule 17)**.
- Records are securely bound in suitable covers with the title of the document appearing on the cover.
- The Registrar shall not accept any document that does not comply with the above.

Reference to the practice and procedure of the High Court Act [Chapter 7:06] and the High Court Rules

- Where a matter is not provided for in the **Supreme Court Rules**, the Registrar of the Supreme Court shall resort to the practice and procedure of the **High Court Act [Chapter 7:06]** and the **High Court Rules**.
- Where A Judge gives a directive that is contrary to the procedure and practices at the High Court, the Registrar shall comply with the Judge's directive **(Rule 73, Supreme Court Rules, 2018)**.

Confidentiality of documents

- All court documents in matters that are pending before the court are confidential and access to them is confined to the parties in the matter. Finalised matters however are public records and can be accessed by anyone **(Rule 319, High Court Rules)**.

2.1 APPEALS Criminal appeals from High Court (Rules 18 Supreme Court Rules, 2018)

When a party presents a Notice of Appeal for issuance, the Registrar must check the following before accepting a notice of appeal:-

- That the notice of appeal is accompanied by the judgment or order being appealed against.



Civil appeals from the High Court (Rule 37 Supreme Court Rules, 2018)

- That the notice of appeal is compliant to **Form 3 of the Rules.**
- That the notice of appeal clearly states the date the judgment appealed against was handed down.
- The Registrar must use the date of judgment above to check whether or not the time within which to file the appeal has not lapsed. In this regard the following must be checked:-
 - If leave to appeal is not necessary, by serving the notice of appeal within 10 days of the date of conviction or sentence against which the appeal is made (**Rule 18(2)**).
 - If leave to appeal is necessary and has been granted by the High Court, by serving the notice of appeal within 4 days of the granting of the leave to appeal or within 10 days of the date of conviction or sentence against which the appeal is made, whichever is later (**Rule 18(2)**).
- The Registrar shall not accept any appeal that is filed out of time without an order for condonation of late noting of appeal.

- That the notice of appeal is accompanied by the judgment or order being appealed against.
- That the notice of appeal clearly states whether the appeal is against part of or the whole judgment (**Rule 37(c)**).
- That the notice of appeal clearly states the date the judgment appealed against was handed down (**Rule 37(a)**).
- The Registrar must use the date of judgment above to check whether or not the time within which to file the appeal has not lapsed. In this regard the following must be checked;
 - a. If leave to appeal is not necessary, by serving the notice of appeal within 15 days of the date of judgment appealed against **Rule 38(1) (b)**.
 - b. If leave to appeal is necessary and has been granted, by serving the notice of appeal within 10 days of the granting of the leave of appeal or within 15 days of the date of the judgment appealed against, whichever is later **Rule 38(2)**.
- Leave to appeal is required where the appeal is against the following orders:-
 - a. An interlocutory order
 - b. An order for costs only
 - c. An order allowing extension of time within which to appeal
 - d. An order refusing summary judgment
 - e. An order made by the consent of parties.

- Leave to appeal is not required where the appeal is against the following orders;
 - a. Where the liberty of the subject or the custody of minors is concerned
 - b. The granting or refusal of an interdict
 - c. In the case of an order on a special case stated under any law relating to arbitration- **section 43 of the High Court Act [Chapter 7:06]**

- Where the appeal is being filed out of time, the Registrar must check to see if an order condoning the late noting of appeal is attached.
- Where the notice of appeal states that leave was obtained, it shall also state the date on which leave was granted and the order granting leave must be attached to the notice of appeal.
- The grounds of appeal are in accordance with the provisions of **Rule 44, and (Rule 37 (1) (d), Supreme Court Rules, 2018)**
- In addition the Registrar must check whether there is a relief sought or prayer, whatever its form (**Rule 37 (1) (e), Supreme Court Rules, 2018**).
- The Notice of Appeal must be signed by either the Appellant or his/her legal practitioner (**Rule 37(1), Supreme Court Rules, 2018**).
- The Registrar must check whether the addresses for service for all parties are indicated and that the appeal is addressed to the Registrar of the High Court and to the Respondents (**Rule 37(1) (f), Supreme Court Rules, 2018**).
- For all civil appeals from the High Court, the Registrar must check if the Notice of Appeal contains an undertaking to pay for costs of preparation of the record and an undertaking for payment of security costs for Respondent.
- Only an Appellant who has been granted leave to appeal *in forma pauperis* and convicted persons who are not legally represented are exempt from making an undertaking to pay or paying costs for the preparation of the record.
- No security for costs need be furnished by the Government of Zimbabwe or by a municipal or city council or by a town management board (**Rule 55(4), Supreme Court Rules, 2018**).
- If the Notice of Appeal does not comply with the requirements in the paragraphs above, the Registrar must not accept the notice.
- Where a Notice of Appeal complies with the requirements above, the Registrar takes all the copies of the Notice of Appeal, allocates a case number according to the sequence in the Index Book, and

gives a copy back to the bearer so that they can go and pay all statutory fees.

- When a party returns with proof of payment of statutory fees, the Registrar firstly checks if the fees paid are correct and the receipt has the Accountant's stamp and shows the case number as allocated.
- Once satisfied, the Registrar then stamps all the copies of the Notice of Appeal, retains six copies of the Notice of Appeal and returns the rest to the person who brought them.
- Details of the case must now be entered in the Index Book, accurately indicating the nature of the process being filed, the legal practitioners for the parties, the date filed and a summary of the case.
- After all the information has been captured in the Index Book, the Registrar forwards the file (now in a record cover bearing the case number and details of the parties as well as the nature of the application on its face) to the IT Department for scanning into the electronic system. Thereafter, the file is forwarded to the registry for filing in the slot designated for filing of cases by year and by sequential numbering.

- For all civil appeals from the High Court, the Registrar must also check whether or not the judgment being appealed against is executable.
- Where the execution of the judgment is suspended pending appeal, the Appellant shall enter into good and sufficient security, within a month of the date of filing of the Notice of Appeal or within the period specified by the Registrar after the Registrar has been called upon to determine such costs for the Respondent's costs of appeal, unless the Respondent waives his right to security.
- If an Appellant who is required to furnish security for the Respondent's costs of appeal fails to furnish such security within the specified period, the appeal shall be regarded as abandoned and shall be deemed to have been dismissed **Rule 55(6) Supreme Court Rules, 2018.**

Security for costs of appeal (Rule 55, Supreme Court Rules, 2018)

- No security for costs need be furnished by the Government of Zimbabwe or by a municipal or city council or by a town management board **Rule 55(4), Supreme Court Rules, 2018**

(Refer to Annexure "SC1" for the checklist used for Appeals from the High Court.)



Appeals from the Labour Court and other tribunals (Part VII, Supreme Court Rules, 2018)

The Registrar must check:-

- That the Notice of Appeal is accompanied by the judgment or order being appealed against.
- That the Notice of Appeal clearly states whether the appeal is against part of or the whole judgment.
- That the notice of appeal clearly states the date the judgment appealed against was handed down.
- The Registrar must use the date of judgment above to check whether or not the time within which to file the appeal has not lapsed.
- Where the appeal is being filed out of time, the Registrar must check to see if an order condoning the late noting of appeal is attached. The Registrar must also check whether the relief sought on appeal is stated.
- Check whether the Notice of Appeal is signed by either the Appellant or his/her legal practitioner.
- Check whether the addresses for service for all parties are indicated.
- Check whether the Notice of Appeal is addressed to the Registrar of the Labour Court and all Respondents.
- If the Notice of Appeal does not comply with the above requirements, the Registrar must not accept it.
- Once a Notice of Appeal complies with the requirements above, the Registrar takes all the copies of the notice of appeal, allocates a case number according to the sequence in the Index Book, and gives a copy back to the bearer so that they can go and pay all statutory fees.
- When a party returns with proof of payment of statutory fees, the Registrar firstly checks if the fees paid are correct and the receipt has the Accountant's stamp and shows the case number as allocated.
- Once satisfied, the Registrar then stamps all the copies of the Notice of Appeal, retains two copies of the Notice of Appeal and returns the rest to the person who brought them.
- Details of the case must now be entered in the Index Book, accurately indicating the nature of the process being filed, the legal practitioners for the parties, the date filed and a summary of the case.
- After all the information has been captured in the index Book, the Registrar forwards the file now in a record cover bearing the case number and details of the parties as well as the nature of the application on its face, to the IT Department for scanning into the electronic system.
- Thereafter, the file is forwarded to the Registry for filing in the slot designated for filing of cases by year and by sequential numbering.

Follow up on records of proceedings from lower courts

Request for Heads of Argument (Rules 25, 52, 53 Supreme Court Rules, 2018)

(Refer to Annexure “SC2” for the checklist used for Appeals from the Labour Court and other tribunals.)

- Once a Notice of Appeal has been issued and all processes up to its filing in the registry have been done, the Registrar will forthwith notify the Registrars of lower courts of the appeals received so that the preparation of the record of proceedings for onward transmission to the appellate court can commence.
 - Records from the Labour Court and other tribunals must be submitted within 15 days.
 - The Registrar makes weekly follow-ups with lower courts on outstanding records of proceedings.
 - The Registrar must ensure that a consolidated list of appeals that is updated weekly is shared with the lower courts so that they are up to date on the list of pending appeals.
 - Where records take long to be submitted, the Registrar notifies the Chief Registrar immediately, attaching the schedule of appeals stated above for appropriate interventions.
 - Where the Registrar is notified by the Registrar of a lower court that a party has failed to pay for the preparation of the record or failed to inspect the record of proceedings on being called upon to do so, the Registrar must dismiss the appeal and thereafter notify the Registrar of the lower court and the parties in the matter of such dismissal.
 - In the event that records of proceedings are received from lower courts, the Registrar must first check whether or not the record has been inspected (Registrar's certificate of inspection signed by both parties), in terms of **Rule 17 (11) Supreme Court Rules, 2018**.
 - If the record has not been inspected by the Appellant or his legal practitioners, the Registrar of the Supreme Court must not accept such records.
 - Where the Registrar is satisfied that the records were properly inspected, the Registrar shall then receive the records by signing for them in the appropriate register from the court *a quo* and enter the details of the records in the files received from lower courts register.
 - A copy of the file is forwarded to the IT Department for scanning into the electronic system after which it is dispatched to the registry for filing and call for Heads of Argument.
-
- Within 24 hours of receiving records of proceedings from the court *a quo*, the Registrar must dispatch letters calling for Heads of Argument from all parties in the matter.

<p>Set-down of matters</p>	<ul style="list-style-type: none"> ■ Returns for all correspondence must be availed to the Registrar on the day of dispatch. These are scanned into the electronic file and correctly filed in physical file. ■ The file with the proof of service of request for Heads of Argument is then filed in the registry in the slot indicating the date when the Appellant's Heads of Argument are due. ■ Where an Appellant is legally represented and his legal practitioner does not file Heads of Argument within the prescribed time, the Registrar checks to see if there are no Heads of Argument filed on the electronic file, and where these have not been filed, the appeal will be regarded as abandoned and dismissed Rule 26(1) (b) Supreme Court Rules for Criminal Appeals and Rule 53(1) Supreme Court Rules for Civil Appeals. ■ The Registrar shall notify the Respondent and the Registrar of the lower court where the appeal emanated from, that as a result of the Appellant's failure to file Heads of Argument, the appeal has been regarded as abandoned and deemed to have been dismissed (Rule 53(2) Supreme Court Rules, 2018). ■ The records of proceedings are then returned to the court <i>a quo</i>, together with the letter of dismissal. Proof of service must be obtained and filed in the record in the Registry. ■ Where the Appellant has filed their Heads of Argument within 15 days, a Respondent in a criminal matter shall file their Heads of Argument within 15 days of receiving the request for Heads of Argument or a notice of set down, whichever is the earlier (Rule 25(8) Supreme Court Rules, 2018). ■ In a civil matter, a Respondent who is legally represented shall file their Heads of Argument within 10 days after receiving Appellant's Heads of Argument, failure of which he or she shall be automatically barred (Rule 52(5) Supreme Court Rules, 2018). ■ Parties who are not legally represented are not obliged to file Heads of Argument and their matter is referred for set down even without Heads of Argument. ■ When Appellant's Heads of Argument are filed within the stipulated time (15 days), the matter is then referred for Set-down. <p><i>(Refer to Annexure "SC3" for template letter calling for Heads of Arguments and Annexure "SC4" for the template letter for dismissal of a matter for failure to file Heads of Argument.)</i></p> <ul style="list-style-type: none"> ■ Upon receipt of the Appellant's Heads of Argument, the Registrar shall set down the appeal for hearing,
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Determination of matters by the Court and dissemination of court's decision

Matters struck off the Roll in terms of Practice Directive 3 of 2013

giving four (4) weeks' notice for civil appeals **Rule 52(4), Supreme Court Rules,2018**) and a minimum of six (6) weeks' notice for criminal appeals (**Rule 25(6) Supreme Court Rules,2018**) unless the parties have agreed otherwise.

- The Registrar sets the matter down by allocating a date for the matter within the time periods stipulated above.
- The Registrar must then prepare a notice of hearing which states the date, time and place where the matter is scheduled to be heard. The notice is addressed to the parties and the Registrar must check that notices are sent out to the correct addresses and current legal practitioners and not to legal practitioners who would have renounced agency.
- The Registrar then forwards the notices of hearing to the Sheriff of the High Court for service.
- Follow-up must then be made with the Sheriff so that returns of service are collected and filed of record, awaiting hearing of the matter.

- At the hearing of the matter, the court will make either an order, a judgment or reserve judgment.
- All judgments and orders are typed by the Judges' Secretaries and are scanned into the electronic files.
- Hard copies are filed in the physical record in the registry and parties are notified in writing when the outcome of their matter is ready for upliftment.
- The outcomes are also forwarded to the Registrar of the court from which the appeal emanated.
- When a judgment that has been reserved is ready for release, parties are notified of the date of release of the judgment so that they can attend.
- Once a judgment has been released, it is scanned into the electronic system and hard copies are filed in the physical record in the registry.
- The outcome is also forwarded to the Registrar of the court from which the appeal emanated.

- All matters struck off the roll must be entered into the Removed from the Roll, Postponed *sine die* or the Struck off the Roll Register, where the details of the matters and the dates when they are due for set-down are entered.
- The Registrar must check this register daily to see if there are matters that are due for resetting or dismissal, depending on the compliance or non-compliance of parties with Practice Directive 3 of 2013.
- Where parties have not rectified the anomaly that resulted in the matter being struck off the roll, the Registrar must write a letter to the Appellant advising



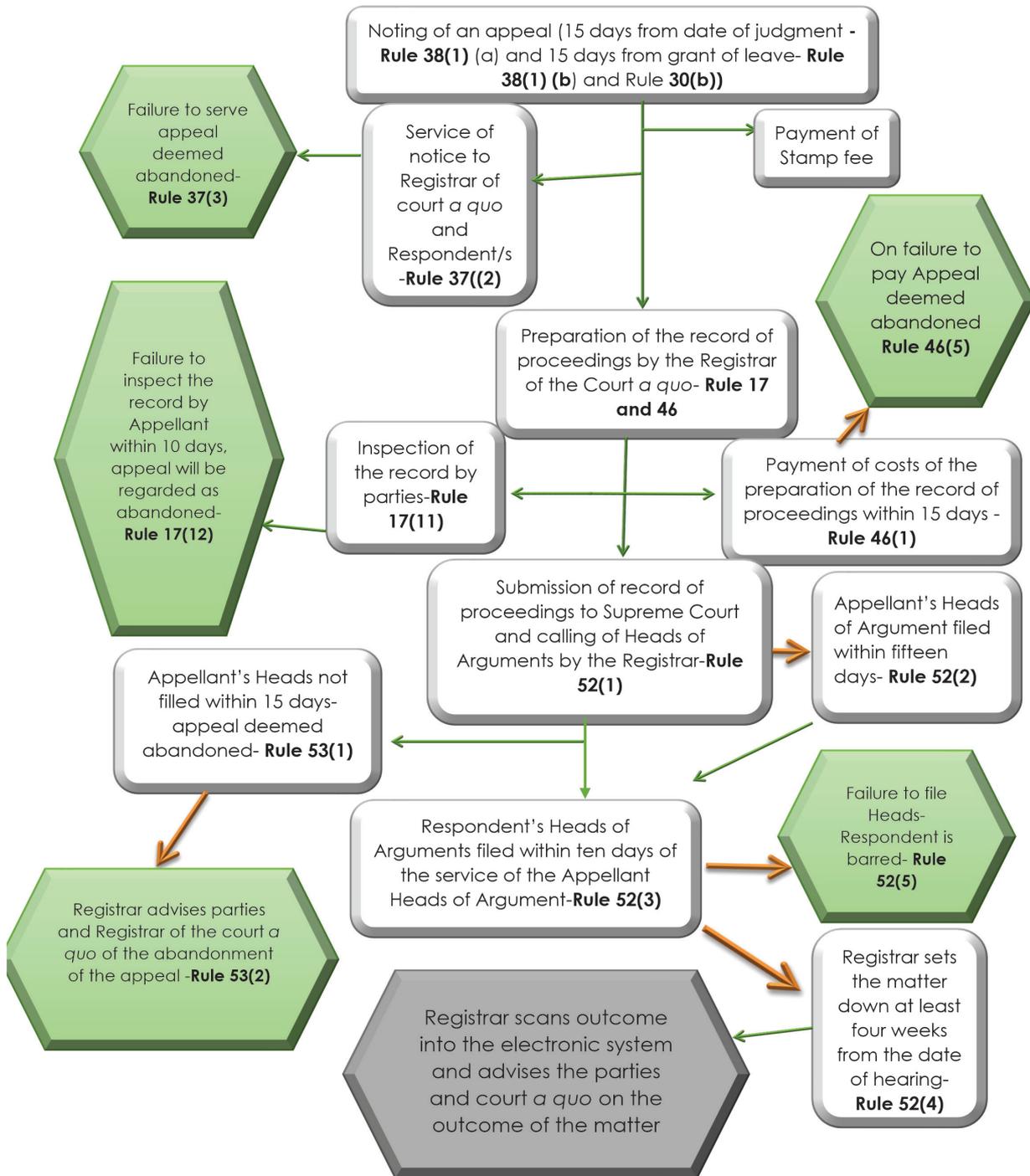
Matters postponed sine die or removed from the roll in terms of Practice Directive 3 of 2013

him that the appeal has been deemed abandoned and proceed to note this against the statistics.

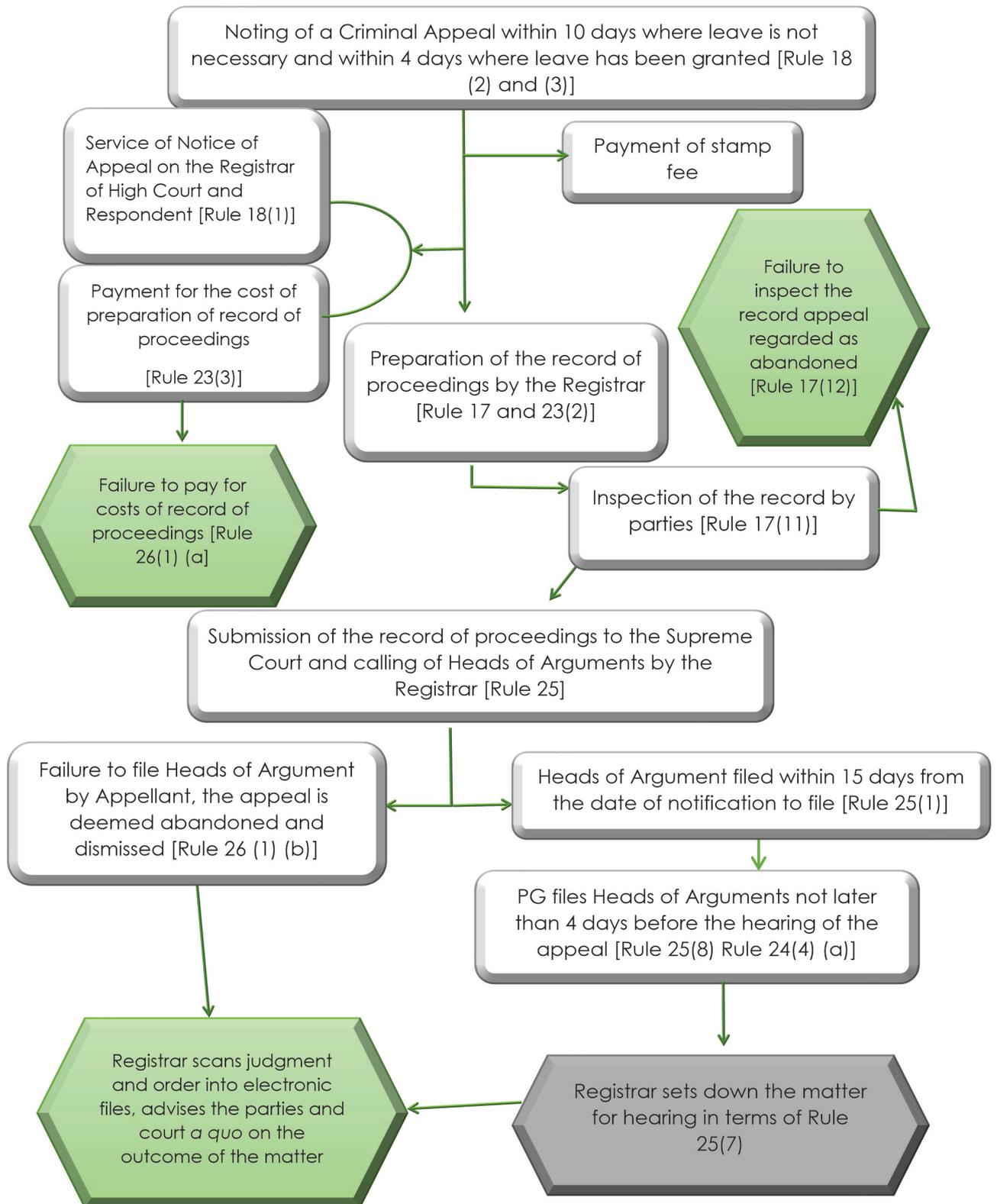
- All matters postponed *sine die* must be entered into the Removed from the Roll, Postponed *sine die* and the Struck off the Roll Register, where the details of the matters and the dates when they are due for set-down are entered.
- At the expiration of three (3) months, the Registrar must check the register to see which matters have not been rectified to enable set-down.
- Where parties have failed to have the matter set down within three (3) months, the Registrar must deem the matter abandoned and communicate same to the parties using standard letters designed for the purpose.
- Where an appeal has been postponed *sine die* or removed from the roll with directions, the Registrar enters these details in the relevant register.
- At the end of the stipulated timeframe, the Registrar must check to see if the directive given was complied with.
- Where parties have complied, the Registrar must reset the matter for hearing.
- Where parties fail to comply, the Registrar shall forthwith advise the party of the non-compliance and call upon the party to rectify the defect within 30 days and if the party complies, the Registrar must proceed to set the matter down for hearing.
- If the party does not rectify the defect within the 30 days, the matter shall be deemed abandoned thus the Registrar must then write to the party notify him or her that the matter has been deemed abandoned.

(Refer to Annexure 'A' for Practice Directive 3 of 2013. Refer to annexures 'A'(1) to 'A'(3) for templates used in the implementation of Practice Directive 3 of 2013.)

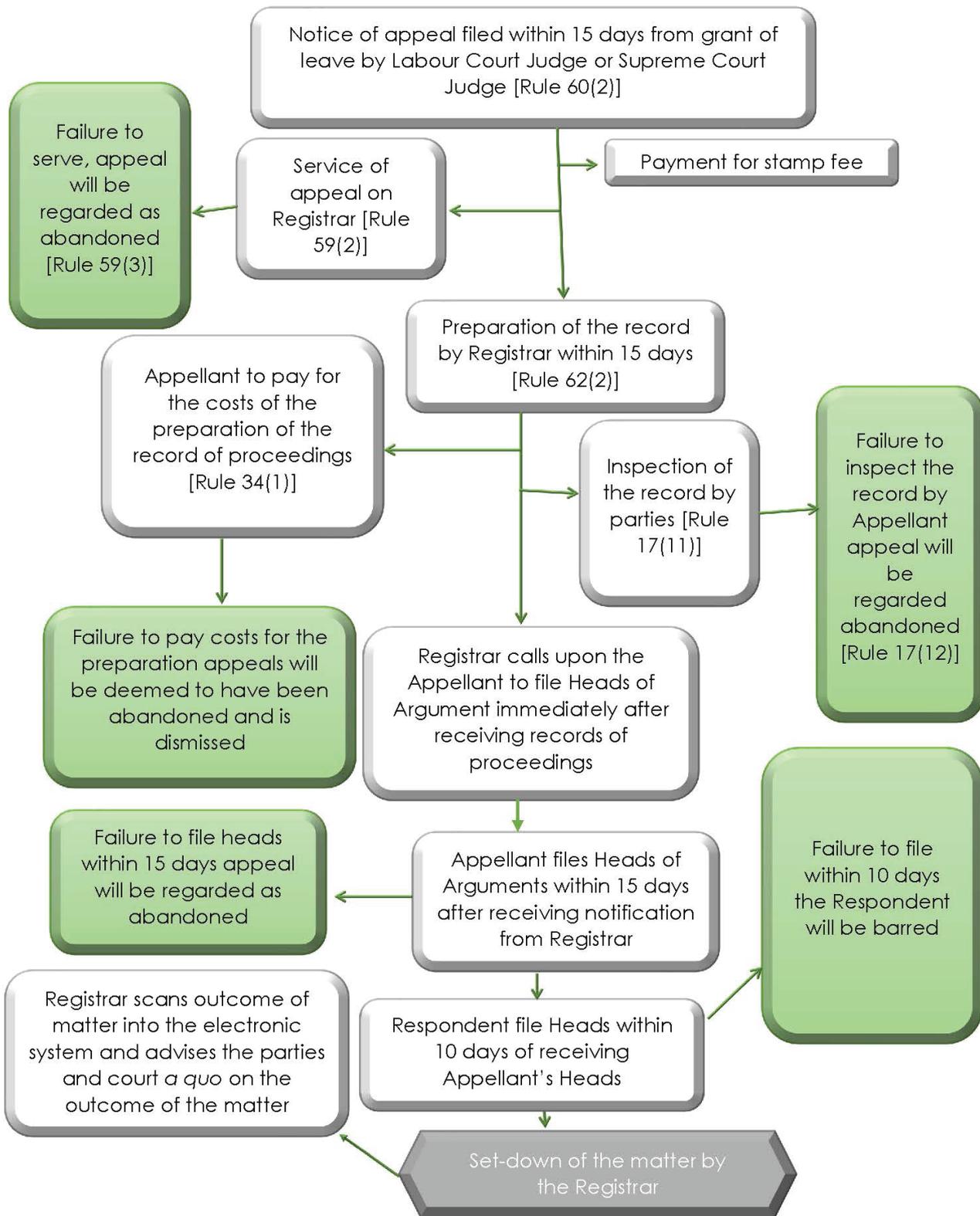
SUPREME COURT CIVIL APPEALS FLOW CHART



SUPREME COURT CRIMINAL APPEALS FLOW CHART



SUPREME COURT APPEALS FROM THE LABOUR COURT AND OTHER TRIBUNALS FLOW CHART



2.2 APPLICATIONS

General for all applications

Matters that are not appeals are brought before the Court by way of chamber application or court application. The Registrar must check the following before accepting Chamber or Court applications:-

- That the application is clearly labelled on its front cover whether it is a chamber application or court application.
- That the Rule in terms of which it is made is stated on the face of the application.
- That the Reference case number is appearing on the cover of the application.
- That the application has been properly indexed.
- That the application is properly paginated and annexures are clearly marked.
- That the application has been addressed to the Respondents and the Registrar of the Supreme Court.
- That all affidavits are commissioned.
- That the Draft Order is included in the Application.
- That the Judgment/Order of the court *a quo* is attached.

CHAMBER APPLICATIONS

Below is a list of chamber applications and documents that must be attached over and above the mentioned requirements.

Chamber application for Leave to Appeal – (Rule 43, Supreme Court Rules, 2018)

- a. **Draft Notice of Appeal.**
- b. The Judgment of the Court *a quo* refusing leave to appeal must be attached.
- c. **Draft order.**

Chamber application for condonation and Extension of time in which to note an Appeal (Rule 43, Supreme Court Rules, 2018)

- a. The Judgment being appealed against.
 - b. Draft Notice of Appeal.
 - c. Draft order
- Once a chamber application is filed in terms of Rule 43, **Supreme Court Rules, 2018, it shall be served on the Respondents within 3 days, failing which the application shall be regarded as abandoned and deemed dismissed [Rule 43(4) Supreme Court Rules, 2018].**
 - To this end, an Applicant **must file a certificate of service of the application.**



- Where service has been effected within the 3 days, the Respondent shall file his opposing papers within 3 days of service and serve same on the Applicant, **who shall be entitled to file his** Answering Affidavits within 3 days **[Rule 43(5) Supreme Court Rules, 2018]**.

Referral of Chamber application to Judge

Before referring a chamber application to a Judge, the Registrar must:-

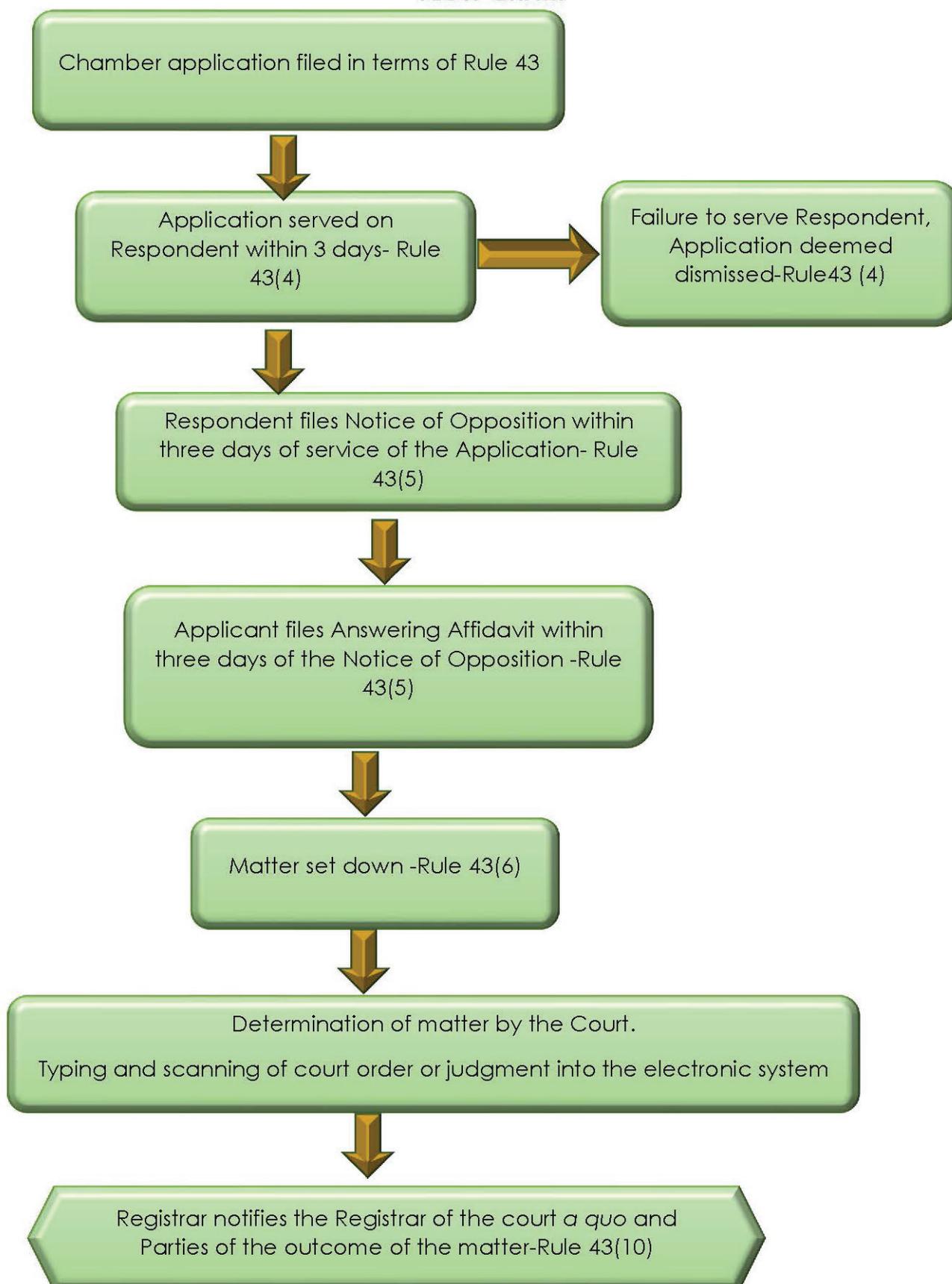
- Check that the application complies with all the requirements above with regards to form.
- Check that the appropriate fees for an application have been paid and the receipt is enclosed in the file.
- Check that a certificate of service has been filed by the Applicant.
- Where a Notice of Opposition has not been received within three (3) days, the Registrar will refer the application to the Judge in Chambers as it is.
- **The** Registrar must then set down the matter, notifying the parties of the date of hearing.

Determination of chamber application by the Court and dissemination of the court's decision

- At the hearing of the chamber application, the court will make either an order, a judgment or reserve judgment.
- All judgments and orders are typed by the Judges' Secretaries and are scanned into the electronic files.
- **Hard copies are filed in the physical** record in the registry and parties are notified in writing when the outcome of their matter is ready for upliftment.
- **The outcomes are also forwarded to the** Registrar of the court from which the appeal emanated.
- When a judgment that has been reserved is ready for release, parties are notified of the date of release of the judgment so that they can attend.
- Once a judgment has been released it is scanned into the electronic system and hard copies are filed in the physical file in the registry. The outcome is also forwarded to the Registrar of the court from which the appeal emanated.

(Refer to Annexure "B" for Practice Directive 2 of 2016 and B(1) – B (3) for templates/standard letters used in dealing with queries raised in Chamber matters in terms of Practice Directive 2 of 2016.)

SUPREME COURT CHAMBER APPLICATION FOR LEAVE AND EXTENSION OF TIME FLOW CHART



COURT APPLICATIONS

(Rules 39 and 40 Supreme Court Rules, 2018)

All other applications other than chamber applications are filed by way of court application in terms of Rule 39 of the **Supreme Court Rules, 2018**.

- Court applications can be filed at any time except for an Application for reinstatement of Appeal which must be filed within 15 days of notification of dismissal (**Rule 70, Supreme Court Rules, 2018**).
- Applications to lead further evidence are filed in terms of **Rule 39 as read with Rule 40** of the **Supreme Court Rules, 2018**.

The following must be attached to any court application filed with the court:-

- a. Court application signed by the Applicant or his legal practitioner,
- b. Affidavit stating the facts relied on,
- c. Any other documents in support of the application,
- d. Draft order.

Service of court application

- The court application must be served on the opposite party within 3 days, failing which the application shall be regarded as abandoned and deemed to have been dismissed [**Rule 39(2) Supreme Court Rules, 2018**].

Opposing papers

- Opposing papers must be filed within 5 days of receipt of the court application as prescribed by **Rule 39(3) of the Supreme Court Rules 2018**.
- On receiving a Notice of Opposition from the Respondent, the Registrar must check the following before accepting the documents:-
 - a. Check that it has a title headed Notice of Opposition on the cover.
 - b. Check that it has an Opposing Affidavit, marked as such.
 - c. Check that the Opposing Affidavit is commissioned.
 - d. Check that it is clearly paginated and indexed.
 - e. Check that the annexures are clearly marked.

Answering Affidavits

Answering Affidavits must be filed within 5 days of service of the opposing papers in terms of **Rule 39(3), Supreme Court Rules, 2018**. On receiving an Answering Affidavit from the Applicant, the Registrar must check the following before accepting the documents:-

- a. Check that it has a title headed **Answering Affidavit** on the cover.
- b. Check that it has an affidavit, marked as such.
- c. Check that affidavits are commissioned.
- d. Check that it is clearly paginated and indexed.
- e. Check that the annexures are clearly marked.

When all the requirements listed above have been satisfied, the Registrar must then set down the matter, notifying the parties of the date of hearing.

Referral of Court Application to Judges

Before referring a Court Application to a Judge, the Registrar must:-

- Check that the Application complies with all the requirements above with regards to form.
- Check that a certificate of service has been filed by the Applicant.
- Check that the appropriate fees for an application have been paid and the receipt is enclosed in the file.
- Where an Opposing Affidavit has been filed, the Applicant may, if he/she so wishes, file an Answering Affidavit within five (5) days of receipt of Respondent's Opposing Affidavit.
- If the Applicant is legally represented, he must file Heads of Argument before the matter is set down.
- Check that the Respondent, if legally represented, has filed Heads of Argument within 10 days of receipt of the Applicant's Heads.
- Check that the Applicant has filed a consolidated index, paginated and bound the record before the matter can be set down.
- If the Applicant is a self-actor, then the matter can be set down without the Applicant having filed Heads of Argument.

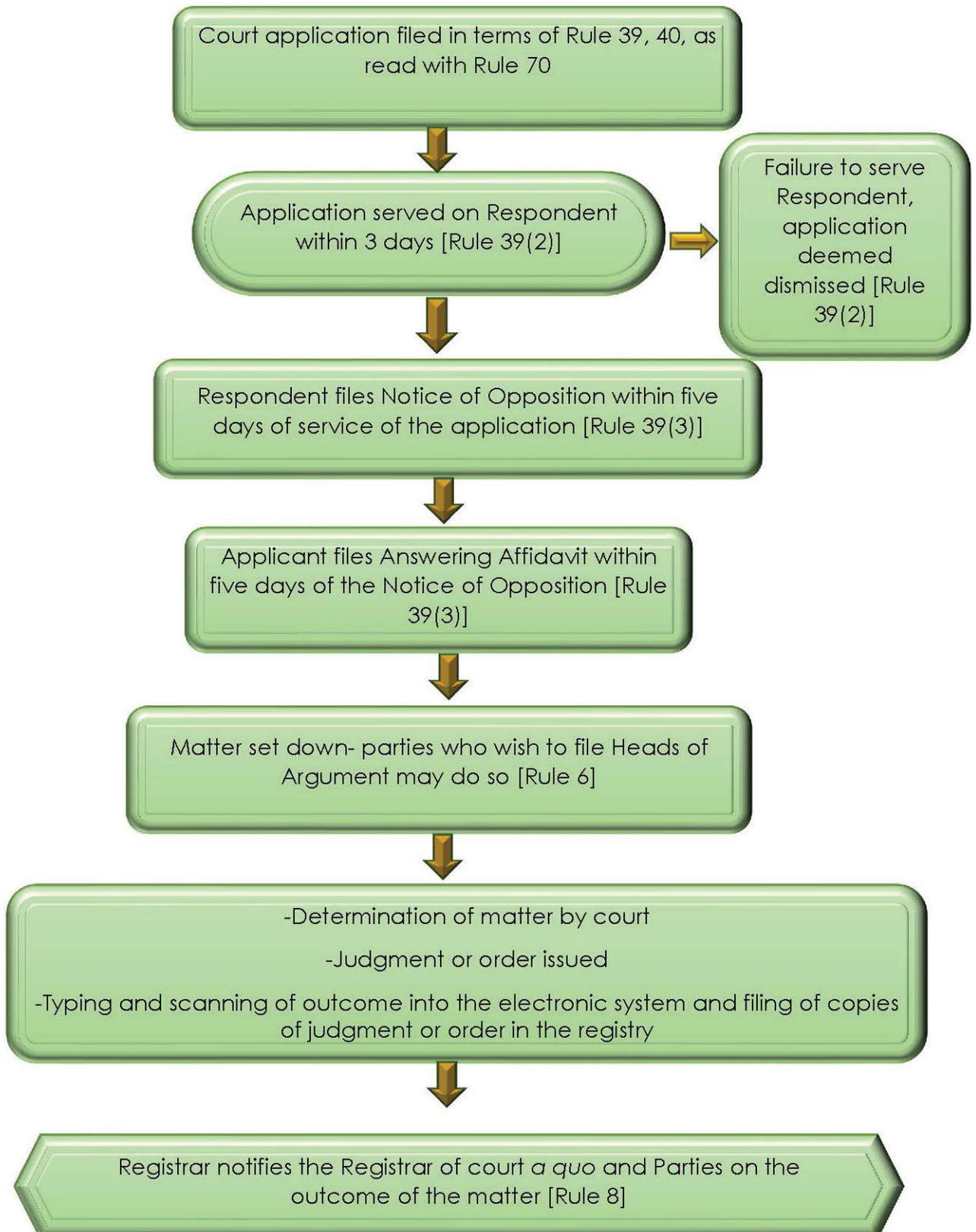
Setting down of applications

- All Notices of Set-down shall be served by the Sheriff.
- At the time of filing an application, an Applicant shall deposit with the Sheriff an amount as determined by the Sheriff as security for costs of service of all notices of set down in terms of Rule 12 of the **Supreme Court Rules, 2018**.
- A copy of the receipt of such deposit shall be furnished to the Registrar at the time of filing of the application.
- When notices of hearing have been prepared, the Registrar must submit these to the Sheriff and thereafter collect the returns of service in time for the hearing.
- The Registrar must file these in the record as proof that parties were served.

Determination of court applications by the Court and dissemination of the court outcome

- At the hearing of the court application, the court will make either an order, a judgment or reserve judgment.
- All judgments and orders are typed by the Judges' Secretaries and are scanned into the electronic files.
- Hard copies are filed in the physical record in the registry and parties are notified in writing when the outcome of their matter is ready for upliftment.
- The outcomes are also forwarded to the Registrar of the court from which the appeal emanated.
- When a judgment that has been reserved is ready for release, parties are notified of the date of release of the judgment.
- Once a judgment has been released, it is scanned into the electronic system and hard copies are filed in the physical record in the registry. The outcome is also forwarded to the Registrar of the court from which the appeal emanated.

COURT APPLICATION FLOW CHART



BAIL APPLICATIONS AND APPEALS

Bail applications pending appeal or leave to appeal (Rule 65, Supreme Court Rules, 2018)

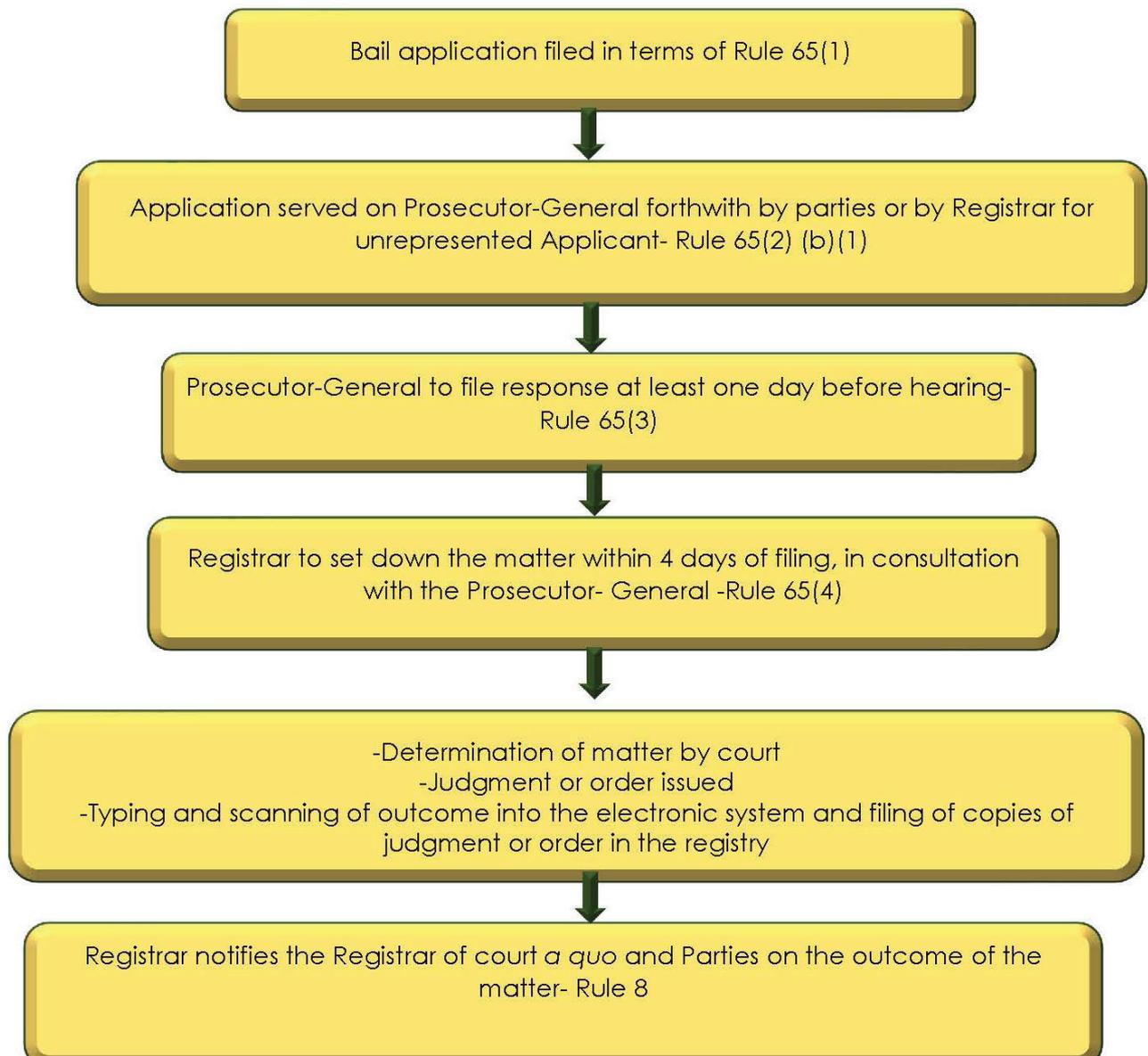
The application must be made in terms of section 123(1(a) of the **Criminal Procedure and Evidence Act** [Chapter 9:07].

- Where the Applicant is not legally represented, the Registrar shall serve a copy of the application on the Prosecutor-General [Rule 65(2)(b)(1) Supreme Court Rules, 2018].
- In addition, the Registrar must obtain a copy of the judgment of the court which convicted and or sentenced the Applicant on behalf of the unrepresented Applicant [Rule 65(2) (b)(2) Supreme Court Rules, 2018].
- The Prosecutor-General shall file with the Registrar his response to the application and serve same on the Applicant or Applicant's legal practitioners [Rule 65(3) Supreme Court Rules, 2018].
- The Registrar shall set down the matter within 4 days of filing after consultation with a representative of the Prosecutor-General [Rule 65(4) Supreme Court Rules, 2018].

Determination of matters by the Court and dissemination of court's decision

- At the hearing of the matter, the court will make either an order, a judgment or reserve judgment.
- All judgments and orders are typed by the Judges' Secretaries and are scanned into the electronic files.
- Hard copies are filed in the physical record in the registry and parties are notified in writing when the outcome of their matter is ready for upliftment.
- The outcomes are also forwarded to the Registrar of the court from which the appeal emanated.
- When a judgment that has been reserved is ready for release, parties are notified of the date of release of the judgment so that they can attend.
- Once a judgment has been released, it is scanned into the electronic system and hard copies are filed in the physical record in the registry.
- The outcome is also forwarded to the Registrar of the court from which the appeal emanated.

BAIL APPLICATION PENDING APPEAL OR LEAVE TO APPEAL FLOW CHART



**Appeals by Prosecutor
– General against
granting of bail Rule 66,
Supreme Court Rules,
2018**

- The appeal must be made in terms of section 121(1) (a) of the **Criminal Procedure and Evidence Act** [Chapter 9:07] and must be noted within 48 hours after grant of bail by the High Court Judge (**Rule 66(1), Supreme Court Rules, 2018**).
- The record of bail proceedings which are subject of the appeal must be lodged simultaneously with the appeal (**Rule 66(2), Supreme Court Rules, 2018**).
- The Respondent's response must be filed at least a day before the hearing of the matter by a Respondent who is legally represented and at least 3 hours before the hearing of the appeal if the Respondent is unrepresented (**Rule 66(5), Supreme Court Rules, 2018**).
- The Registrar shall set down the matter within 4 days of it having been filed after consultation with a representative of the Prosecutor-General and any legal practitioner representing the Respondent (**Rule 66(6), Supreme Court Rules, 2018**).

Determination of matters by the Court and dissemination of the judgment

- At the hearing of the matter, the court will make either an order, a judgment or reserve judgment.
- All judgments and orders are typed by the Judges' Secretaries and are scanned into the electronic files.
- Hard copies are filed in the physical record in the registry and parties are notified in writing when the outcome of their matter is ready for upliftment.
- The outcomes are also forwarded to the Registrar of the court from which the appeal emanated.
- When a judgment that has been reserved is ready for release, parties are notified of the date of release of the judgment so that they can attend.
- Once a judgment has been released, it is scanned into the electronic system and hard copies are filed in the physical file in the registry.
- The outcome is also forwarded to the Registrar of the court from which the appeal emanated.

**Appeals against
refusal of bail – Rule 67
Supreme Court Rules.
2018**

- The appeal must be made in terms of section 121(1) (b) of the **Criminal Procedure and Evidence Act** [Chapter 9:07].
- The appeal can be noted at any time after refusal of bail by the High Court Judge.
- The record of bail proceedings which are subject of the appeal must be lodged simultaneously with the appeal.
- Where the Appellant is not legally represented, the Registrar shall serve the copy of the appeal on the Prosecutor-General.

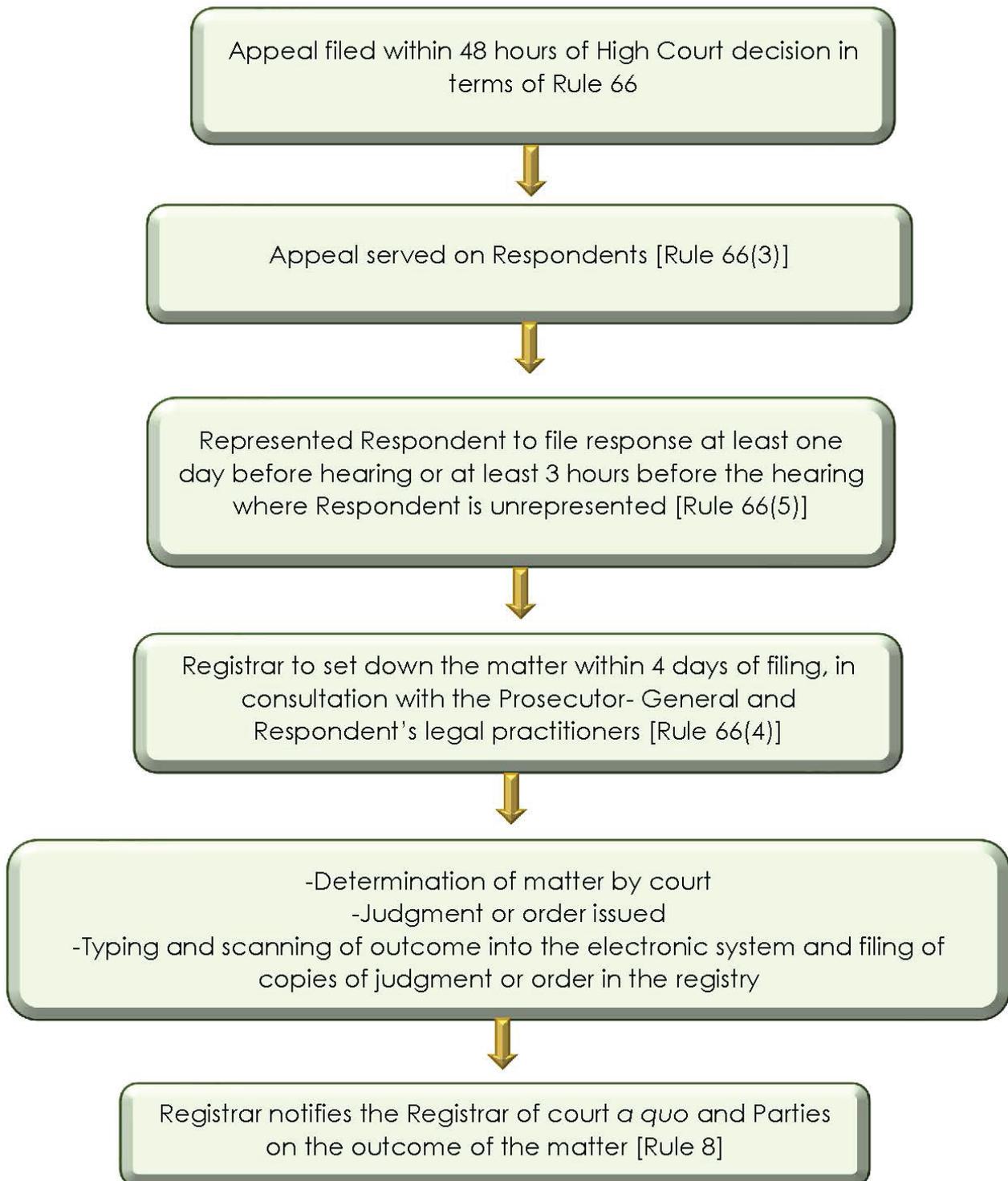


- In addition, the Registrar must obtain a copy of the record of proceedings from the Registrar of the High Court on behalf of the unrepresented Appellant.
- The Prosecutor-General shall file with the Registrar his response to the appeal and serve same on the Applicant or Appellant's legal practitioners.
- The Registrar shall set down the matter within 4 days of filing after consultation with a representative of the Prosecutor-General.

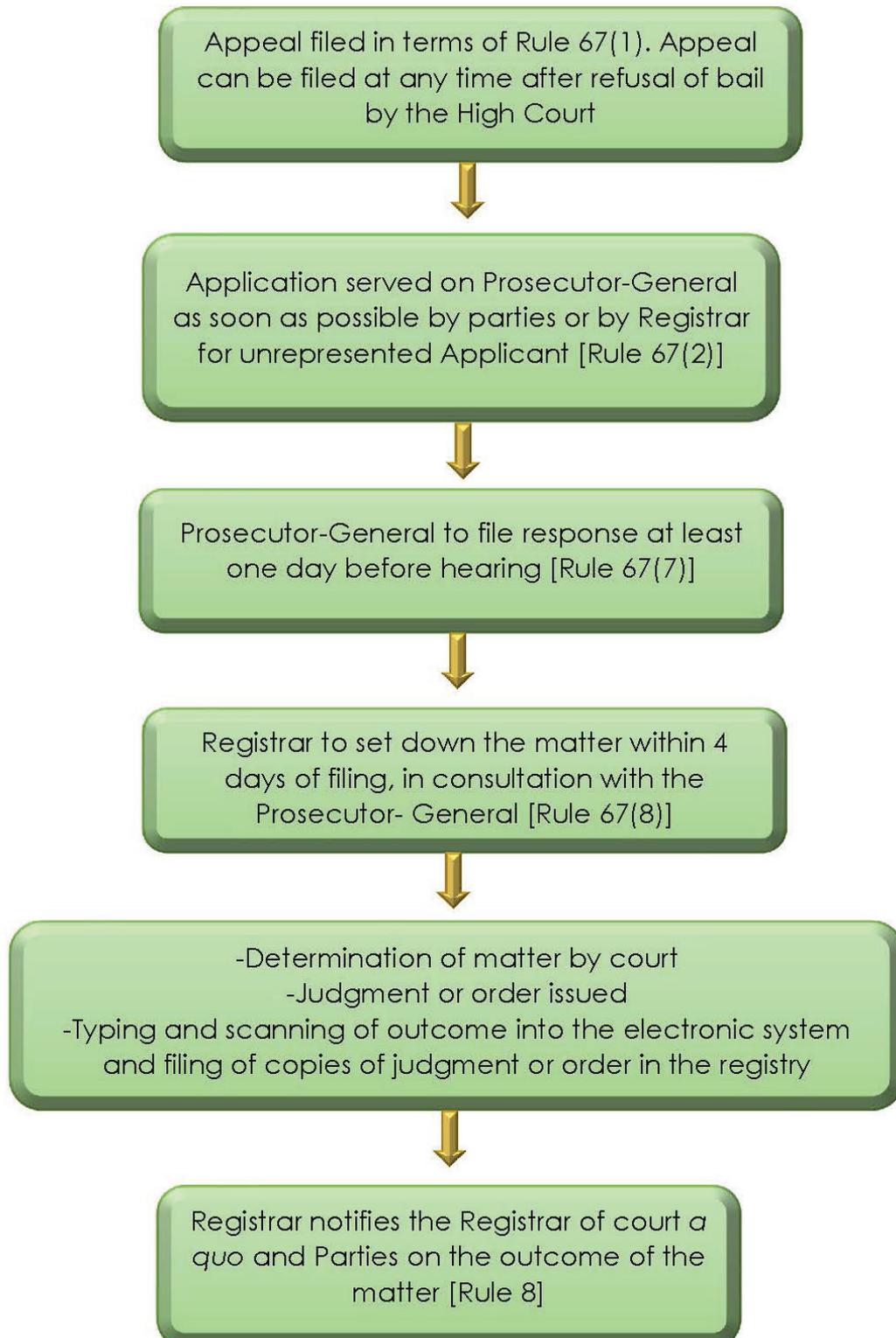
Determination of matters by the Court and dissemination of the judgment

- At the hearing of the matter, the court will make either an order, a judgment or reserve judgment.
- All judgments and orders are typed by the Judges' Secretaries and are scanned into the electronic files.
- Hard copies are filed in the physical record in the registry and parties are notified in writing when the outcome of their matter is ready for upliftment.
- The outcomes are also forwarded to the Registrar of the court from which the appeal emanated.
- When a judgment that has been reserved is ready for release, parties are notified of the date of release of the judgment so that they can attend.
- Once a judgment has been released, it is scanned into the electronic system and hard copies are filed in the physical record in the registry.
- The outcome is also forwarded to the Registrar of the court from which the appeal emanated.

APPEAL AGAINST GRANTING OF BAIL FLOW CHART



APPEAL AGAINST REFUSAL OF BAIL FLOW CHART



2.3 MANAGEMENT OF JUDGMENTS AND ORDERS

- The Judges' Clerks are required to advise parties when judgment is being delivered by the Honourable Judges.
- The Registrar must ensure that this directive is complied with by all Judges' Clerks.
- Where a court issues an order or judgment, the Registrar must quickly notify the parties to uplift the order or judgment.
- The order or judgment must be scanned into the soft copy record on the date of its handing down and issuance.
- Upon uplifting the same, the parties must acknowledge receipt of such order or judgment through a register created for that purpose.
- The order or judgment is uplifted after payment of requisite fees.
- The Registrar must update the Index Book with the outcome before the file is referred to the registry for filing.
- Matters with final orders and judgment should be filed, with appeal records being sent back to the court of origin with copies of the order or judgment.
- The finalized matter records should not be kept in the registry office – they must be sent back to the court of origin.
- The Registrar is obliged to read each and every order coming out of court and fully comprehend the contents thereof and then act according to the dictates of the order.
- The Registrar must constantly liaise with Registrars of lower courts for compliance with orders to act in a specific way, e.g. reconstruction of records, remittals, fast-tracking of matters and preparation of records.
- Orders and judgments with specific directions must be complied with e.g. Referral to Law Society of Zimbabwe, JSC Secretariat or NPA; or any other specifications.
- The Registrar shall constantly get updates on all pending judgments especially the dates of judgment delivery before delivery is made.
- When reserved judgments have been handed down, the Registrar should update the reserved judgments register.

2.4 MAINTENANCE OF THE REGISTRY OFFICE

Filing

- All files in the Registry must be properly classified with files being filed in their designated shelves.
- The Registrar must maintain clearly labelled shelves in the registry office, e.g. Pending Appeals, Awaiting Records, Postponed or Removed from the Roll and Remittals for Rectification.

2.5 GENERAL ISSUES

- Reserved judgment files must have their own separate shelves.
- Pending Matters Awaiting Heads of Argument must be filed and labelled in a manner that clearly denotes the due dates for the filing of Heads of Argument from the first to the last date of the month.
- All records must be filed correctly in their respective slots soon after any attendance.
- All pleadings, correspondences or mail received shall be filed in the relevant file on date of receipt.

File Management

- The Registrar must make follow-ups on records of proceedings from lower courts.
- There should be constant liaison with Registrars of lower courts on pending appeals with a consolidated list of appeals being updated weekly.
- As soon as records are received from lower courts, the Registrar is obliged to dispatch letters calling for Heads of Argument.
- All returns for all correspondence must be availed to the Registrar on the day of dispatch.
- These should be scanned into the electronic file and correctly filed in physical file before properly filing file on correct slot.

Station Visits

- The Registrar conducts announced and unannounced station visits on a quarterly basis as stipulated in the Chief Registrar's General Circular 1 of 2013 or on lawful instructions from Superiors.

Checking of Registers

- The Registrar conducts continuous assessment of Registry operations including checking all registers.

Statistics

The Registrar shall compile and update accurate monthly and quarterly statistics of all cases-

- Received;
- Finalised;
- And those whose judgments have been reserved.

(Refer to Annexure "SC5" for the template used for the compilation of statistics.)

Court Rolls and Cause Lists

- The Registrar should prepare a concise Court Roll before the beginning of every court term. The Court Roll should be approved by the head of the court and distributed to all Judges and various departments in the Registry.

- Further, a weekly Cause List should be prepared for the cases being heard for that week. The Cause List should contain all case details, the court and location as well as the names of the Judges presiding over the cases.
- All Cause Lists must be placed before the presiding Judges, displayed at the court and on the JSC website for the public and court users' information.

Fees

- All Supreme Court fees must be paid before any application is processed or an order is issued to a litigant. Receipt for the fees paid must be attached in the inside cover of the record.
- NB:** An exception applies where a party has been granted leave to proceed *in forma pauperis*, and those who are in custody.

Photocopying of Documents

- Where a litigant wants to photocopy a document filed with the Registrar's Office, they have to pay the relevant copy charge and the copy shall be done in the office.

Movement of files

- Where files move from one office to another, this must be done by members of staff only.
- Clients are not supposed to be given files for transmission to other offices.
- Members of staff are to sign for the file they receive and the person who handed over the file must also sign in the appropriate file movement register.

Signing of orders

- Always check to ensure that terms on the typed order correspond with the terms on the granted order signed by the Judge and all details are as they appear on the signed order.
- The Registrar must not sign an order which is at variance with the order issued by the Judge.
- The Registrar must check if the typed order bears the correct case number.
- The name of the Judge who issued the order must be correct. Ensure that the order is authentic by familiarising oneself with Judges' signatures.

Archiving of files

- The Registrar must always ensure that pending files are not sent to the National Archives even if such a file is within the range of files due for archiving. Only completed files shall be sent for archiving.

2.6 GENERAL CUSTOMER CARE

- A register of requested files shall be maintained and completed on the date each file is requested from National Archives.

Taxation- Rule 56

- Costs shall be taxed by a Registrar. Costs allowed are such costs, charges and expenses which appear to have been necessary or proper for the attainment of justice.
- A bill of costs has to contain costs for services actually rendered by a legal practitioner in his capacity as such.
- Costs may be awarded on a party and party scale or on a legal practitioners and client costs - Tariff of legal practitioner's fees is instructive. *(Note that the tariff changes from time to time and the current one at each given period should be used).*
- A party aggrieved by the decision of a taxing officer may give notice of review to the Registrar and opposite party within 15 days of the taxation- **Rule 56(2)**.
- The review will be set down for hearing by the Judge after the Registrar has written a report stating reasons for his decision-**Rule 56(3) and Rule 56(4)**.

Pro-Deo allocation

- All unrepresented persons who would have been sentenced to death at the High Court are entitled to legal assistance and the Registrar must allocate their file to a legal practitioner selected from a roster of names provided by the Law Society of Zimbabwe for preparation of the notice of appeal, filing of Heads of Argument and representation on the date of the hearing of the appeal.

Informa pauperis procedure

- Any indigent or person of limited means may apply to the Registrar for legal assistance.
- If it appears to the Registrar that the Applicant may be a person who cannot afford the services of a legal practitioner, the Registrar shall refer the Applicant to a legal practitioner selected from a roster of names of lawyers furnished by the Law Society of Zimbabwe or Legal Aid Directorate.

Telephone

- Telephones shall be answered within three (3) rings.
- Members of staff are to restrict time spent on the telephone and to observe telephone manners by being calm and professional.
- The Registrar shall keep promises made to clients, for example checking for a requested file so that no



excuses are made when a client makes a follow-up call.

Public Relations

- Handle inquiries professionally and understand issues raised by clients before taking any action.
- If there is a delay in locating a file, notify the client and offer an apology.
- A culture of respect, teamwork and professionalism shall always guide members of staff in their interaction with clients.

Response to queries and complaints

- All letters written to the Registrar should be responded to by the Registrar and the response should be made within a period of three (3) days.

Missing Records

- The Registrar shall endeavour to avoid having missing records in the registry by paying regard to General Circular 1 of 2013 when dealing with missing records.
- Where any court record goes missing, that fact should be brought to the attention of the Registrar by way of a memorandum.
- The Registrar is required to ensure that diligent search is carried out and advise the parties accordingly.
- Reconstruction of records shall be guided by the provisions contained in General Circular 1 of 2013.

HIGH COURT

CIVIL AND CRIMINAL DIVISIONS

3.1 PROCESSES OR DOCUMENTS LODGED

- Before acceptance of processes or documents, a thorough check of each document being lodged must be made to ensure that it is correct, e.g., affidavits must have been signed, dated and properly commissioned.
- As held by the Court in **Satellite Television Users Assn v P.T.C. 1991 (2) ZLR 226 (H)**, affidavits which purportedly had been sworn before a Commissioner of Oaths but which had not been *signed* or stamped by him were not affidavits and were not evidence before the court.
- If the process or application has been checked and is deemed to be in order, issue it by stamping and signing all copies.
- All urgent chamber applications must be attended to timeously and must incorporate a certificate of urgency.
- Where the process is a request for a PTC date or notice of set-down the file shall immediately be pulled out of registry and submitted directly to the Assistant Registrar responsible for PTCs, opposed matters or the motion roll, whichever the case might be.
- Caution should be exercised to ensure these procedures are not mixed, i.e. no affidavit should be attached to summons and that no evidence is pleaded or attached to summons.
- A separate cover shall be kept for each matter presented to court - (**Rule 317 of the High Court Rules, 1971**).

DRAFT ORDERS

- All applications must have appropriate draft orders correctly titled so as to reflect the nature of the order.
- The index lodged must reflect the type of the draft order in the application.
- Draft orders seeking provisional orders have to meet the authorized format for a provisional order, as per Form 29C of the High Court Rules.
- Litigants must be immediately alerted of defective draft orders.

INDEX BOOK

There shall be an Index Book called the Civil Record Book, in which the following particulars shall be recorded:-

- the number of the action;
- the names of the parties;
- the plaint or cause of action;
- the day and place of hearing the case;
- the names of legal practitioners;



<p>HIGH COURT FEES OR STAMP FEES - RULE 318</p>	<ul style="list-style-type: none"> ■ the judgment of the court; and ■ any subsequent proceedings and remarks. <p><i>No file shall be forwarded to judges without the names of the parties having been captured on the file cover.</i></p> <ul style="list-style-type: none"> ■ All High Court fees must be paid before any application is processed or an order is issued to a litigant. ■ The receipt for the fees paid must be attached in the inside cover of the application. ■ Members of staff shall not accept and file any document or issue any summons, subpoena or other process or order of court unless the applicable prescribed fee has been paid and receipt attached. ■ An exception applies where a party has been granted leave to proceed <i>in forma pauperis</i>. ■ <i>In forma pauperis</i> (I.F.P.) applications must specifically reflect that the matter is proceeding on an I.F.P. basis. ■ Photocopying of any document filed with the Registrar's office must be done upon payment of the requisite fee in terms of the existing regulations <i>(High Court (Fees) (Civil Cases) Regulations)</i>.
<p>CONFIDENTIALITY OF DOCUMENTS –RULE 319</p>	<ul style="list-style-type: none"> ■ All documents filed with the Registrar in any matter shall be confidential until the court has adjudicated thereon, save that such documents shall be open for the inspection of parties to the suit or matter. ■ Thereafter, all documents shall be regarded as court records and shall be available to the inspection of the public on payment of the prescribed search fee.
<p>UPLIFTMENT OF HIGH COURT DOCUMENTS</p>	<ul style="list-style-type: none"> ■ No litigant or legal practitioner is allowed to withdraw a document filed with the High Court in which a file has already been opened. ■ This shall apply even where a litigant decides to abandon his or her case. ■ No exhibit forming part of the record of any civil proceeding may be withdrawn from the record of such proceedings without the permission of the Registrar – <i>Rule 320.</i>
<p>PHOTOCOPYING OF DOCUMENTS</p>	<ul style="list-style-type: none"> ■ Photocopying of any document filed with the Registrar's office must be done upon payment of the requisite fee in terms of the existing <i>High Court (Fees) (Civil Cases) Regulations.</i>
<p>FILING OF PLEADINGS AND CORRESPONDENCES</p>	<ul style="list-style-type: none"> ■ All pleadings, correspondences or mail received shall be filed in the relevant file on the date of receipt or at most within two (2) days of receipt.
<p>CROSS REFERENCE FILES</p>	<ul style="list-style-type: none"> ■ Where an application is lodged and there is a cross

TRANSMISSION OR MOVEMENT OF FILES

- reference file or files, the relevant cross reference number/numbers shall be endorsed on the new file cover.
- All the relevant cross reference files have to be pulled out and attached to the application before it is forwarded to the Judge.
 - Where the cross-reference number is not reflected on the file cover, upon receipt of any application, the Officer concerned must check whether there is a cross reference matter reflected or mentioned in the founding affidavit, declaration, draft order or any other filed document.
 - If there is a cross reference number mentioned, that number must be endorsed on the file cover and the relevant cross reference file pulled out and attached to the application.
 - Where files have to move from one office to another, the transmission of the files shall be done by members of staff only. No client shall be given a file for transmission, be it to the typing pool or Accounts Office.
 - Every member of staff shall sign for any file that they receive and shall ensure that the person to whom they hand over any file(s) signs for the handed over files.
 - All files should be signed for in the appropriate movement registers by members of staff only. Updated file movement registers shall be kept and files shall be signed for whenever they leave registry or any office.

DISTRIBUTION OF JUDGMENTS

The Registrar distributes judgments electronically and physically in the following manner once available:-

- Web based system – where judgments are uploaded onto the JSC website.
- Electronic mail – where all recipients must provide an e-mail address to the Head of ICT.
- Physical distribution as per the Secretary's Circular Number 1 of 2018.

MISSING RECORDS

- The Registrar shall endeavor to avoid having missing records in the registry by paying regard to General Circular 1 of 2013 when dealing with missing records.
 - a) **Reconstruction of missing records**
Reconstruction of records shall be guided by the provisions contained in General Circular 1 of 2013.
 - b) **Archiving and retrieval of records**
- If there are records above the age of five (5) years which are deemed semi-active, the Registrar processes them by classifying them according to age.
- Compile a list of the records on the transmittal list



NATURE OF APPLICATIONS

- Rules and or Practice Directions are complied with before matters are set down or referred to the Judge.
- Checklists for each process are completed, signed and dated by the referring Registrar as confirmation of readiness of a matter.
 - Every application lodged shall specify whether it is a court application, chamber application, court application for review or an application for default judgment.
 - In the case of default judgments, Applicant must indicate whether the application is in terms of **Rule 57 or Rule 58 of the High Court Rules, 1971**.
 - Chamber applications for default judgment in terms of Rule 57 relate to a claim for debt or liquidated demand only and no appearance by the defendant within the period prescribed in the summons for entering appearance has lapsed, are heard by a Judge in chambers. These also apply where the defendant entered appearance but has been duly barred for default of plea.
 - Judgment in default in terms of Rule 58 proceeds by way of motion, where a plaintiff with a defendant who remains in default after the expiration of the *dies induciae* may set down the matter in court without notice to the defendant.
 - Judgment in default may also be entered in terms of Rule 59, where it is for a debt or liquidated demand only but argument in relation to any aspect of the suit is considered necessary.

3.3 SUMMONS

- This is one of the two procedures commencing proceedings in the High Court. If it is an action procedure, it should set out properly the cause of action on which the plaintiff relies.
- The Plaintiff(s) to bring a minimum of four (4) copies of summons commencing action to the Registrar.
- Summons commencing action properly filed should:-
 - Be within the prescribed jurisdiction that is monetary, addresses and cause of action. (*Ensure summons contain an address for service which has to be within a radius of five (5) kilometers from the High Court registry where the defendant is required to enter appearance to defend*).
 - Contain the full name and address for the service of the Plaintiff and if he sues in a representative capacity, the capacity in which he sues.
 - Contain the full name of the Defendant and his residence or place of business and, if sued in a

**PLAINTIFF'S
REPLICATION**

**APPEARANCE
TO DEFEND**

**CHAMBER
APPLICATION
FOR DEFAULT
JUDGMENT**

Time for filing plea exception or special plea (Rule 119)

■ The Defendant shall file his plea, exception or special plea within 10 days of the service of the Plaintiff's Declaration

■ A reply to the Defendant's Plea, is called the Plaintiff's Replication.

Filing of replication (Rule 125)

■ The Plaintiff's Replication shall be filed within 12 days of the service of the plea.

■ The Defendant must enter Appearance to Defend in the Appearance Book within 10 days from the date of service of the summons.

■ Within 24 hours of entry of the Appearance to Defend, written notice thereof shall be served on the Plaintiff or his legal practitioner where he sues by a legal practitioner, at the Plaintiff's address of service. (Rule 49).

Failure to enter appearance (Rule 50)

■ A defendant who fails to enter appearance shall be deemed to be barred.

Withdrawal by Plaintiff after appearance entered (Rule 52)

■ Where the Defendant has entered appearance the Plaintiff shall not be entitled, save with the Defendant's consent in writing, to withdraw the action until he has paid the Defendant's taxed costs or has undertaken to pay such costs and has given notice of intention to withdraw to the Defendant and to the Registrar. Such undertaking shall be incorporated in the notice of withdrawal.

■ If such taxed costs are not paid within 12 days of demand, the Defendant may make a Chamber Application for judgment for his taxed costs.

■ Filed by Plaintiff without notice to the Defendant.

■ Documents are paginated in full and properly.

■ Applicable documents:-

- Summons;
- Return of Service;
- Declaration; and
- Draft Order.

■ Ensure the Draft Order filed is consistent with the summons.

■ Always ensure that the *dies induciae* has expired.

■ A Founding Affidavit need not be annexed in a

NOTICE TO PLEAD

3.4 PRE-TRIAL CONFERENCES

Chamber Application for default judgment in terms of Rule 57 where the facts are evident from the record - Rule 241 (2).

- Receipts for summons and the default application must be on file.
- If application has five (5) pages or less, there is no need for an index.
- If application is more than five (5) pages, there must be an index and proper pagination of all documents and the application must be bound.
- Where the Defendant has filed a notice to plead, they must also file the certificate of service.
- At the close of pleadings, the Registrar advises parties to hold a round table meeting.

Closure of pleadings (Rule 107)

The pleadings shall be considered closed;

- If one of the parties is barred.
- If either of the parties has joined issue upon any pleading of the opposite party without adding any further or special pleading thereto.
- If a written agreement signed by the legal practitioners of both parties to the effect that the pleadings shall be considered as closed has been filed with the Registrar.
- Before a file is forwarded to a Judge, the following documents have to be filed of record:-
 - By the Plaintiff-**
 - i. Notice of Set-down for PTC;
 - ii. Proof of service for Notice of Set-down;
 - iii. Plaintiff's Summary of Evidence summarizing the evidence of each witnesses;
 - iv. Plaintiff's pre-trial issues;
 - v. Plaintiff's bundle of documents;
 - vi. Plaintiff's discovery affidavit and schedule;
 - vii. Defendant's plea;
 - viii. Plaintiff's replication to Defendant's counter-claim; and
 - ix. Proof of payment.
 - By the Defendant-**
 - (i) Defendant's summary of evidence giving a summary of each witness' evidence - a joint P.T.C minute or memo has been filed and such a memo has captured the correct issues;
 - (ii) Defendant's PTC issues;
 - (iii) Certificate of service for the notice of

PROCEDURE FOR BARRING

3.5 CIVIL TRIALS

- amendment (where applicable);
- (iv) Defendant's discovery affidavit and schedule;
- (v) Certificate of service for discovery affidavit and schedule filed;
- (vi) Defendant's bundle of documents filed;
- (vii) Certificate of service for bundle of documents (from both parties);
- (viii) PTC roundtable minutes.

- The Registrar must ensure that the record and bundle of documents by both parties is bound, paginated and indexed.
- The Judge who presided over the PTC must approve the PTC minute before the file is remitted for trial.
- Five days' notice of intention to bar is given to any party to the action who has failed to file his declaration, plea, or request for further particulars within the time prescribed in the High Court Rules.
- The Registrar accepts and stamps a minimum of four (4) copies of a Notice of Intention to Bar filed by the Plaintiff.
- Thereafter, the copies are returned to the Plaintiff for the *dies induciae* to lapse.
- A notice in Form 9 (Annexure "HC2") is delivered at the address of service of the party in default.
- At the expiry of the time limited by the notice, the party who has served the notice returns the copies that are stamped by the Registrar as an endorsement of service on the Defendant.
- The endorsement on Form 9 shall be duly completed before filing and it shall be signed by the party who has given the notice or his legal practitioner.
- The Registrar shall accept a withdrawal from a party who has barred his opponent by filing a notice with the Registrar in Form No. 10.
- Matters not settled at the PTC hearing are referred for trial before a different judge. These matters should contain a joint PTC minute that captures the correct issues for determination.
- The joint PTC minute must be approved by the Judge before referral to trial.
- The Plaintiff thereafter binds the record and applies for a trial date by filing a blank Notice of Set-down.
- The application for a trial date shall be accompanied by a payment of the requisite fee as stipulated in the *High Court (Fees) (Civil Cases) Regulations*. A deposit of the Sheriff's costs for service of notice of Set-down shall be made together with the application for a trial date.

JUDGMENT BY CONSENT (RULE 53-55)

- It dispenses with the need for the Defendant to appear in court after issuance of summons.
- It has to be in writing and be signed by the Defendant personally or by a legal practitioner who entered appearance on his behalf.
- The Defendant's signature shall be verified by an affidavit made by someone other than the Defendant himself, or by the signature of a legal practitioner acting for him and not for the opposite party.
- Upon filing a consent to judgment with the Registrar, the Plaintiff may make a Chamber Application for judgment and may be granted or an order made according to such consent.
- A Consent to Judgment must reflect correct names of the parties and their citation must be correct.
- The Consent to Judgment must reflect the correct case number.

DEED OF SETTLEMENT

When parties have reached an agreement and have reduced that agreement into a Deed of Settlement, make sure that the Deed of Settlement submitted is properly drafted.

- Amongst other contents, the Deed of Settlement must:-
- (i) Reflect names of the parties and their correct citation and the correct case number;
 - (ii) Capture the specific terms of what has been agreed to;
 - (iii) If there is specific performance to be effected by one or both of the parties, this must be clearly captured;
 - (iv) It must be dated;
 - (v) It must bear the signatures of both parties and their legal representatives.
- Where the Deed of Settlement is not meant to be an order of court, it is presented to the High Court for the Judge to merely note that Deed.
 - Where the parties want the Deed of Settlement to be an order of court, the draft presented must specifically indicate this position.
 - Such a Deed is couched along the lines of the normal draft orders presented to court.
 - Only where the terms of the Deed of Settlement have been captured or incorporated in the Judge's order, must an order be typed and issued.
 - The clerk of the inferior court, the tribunal, board or officer whose proceedings are being brought on review, shall within 12 days of the date of service of the application for review, lodge with the Registrar the original record, together with two typed copies, which copies shall be certified as true and correct copies.

3.6 COURT APPLICATION FOR REVIEW: PREPARATION AND LODGING OF RECORD AND FEES: RULE 256



3.7 OPPOSED MATTERS

- The parties to the review requiring copies of the record for their own use shall obtain them from the official who prepared the record.
- The copies of the record shall be paginated.
- Every record shall contain a complete and correct Index of the Evidence and of all documents and exhibits in the case, the nature of the exhibits being briefly stated in the index.
- Every record shall be securely bound in stout covers disclosing the names of the parties, the court or public body whose proceedings are being brought on review and the names of the legal practitioners of the parties.
- The Registrar may refuse to accept copies of records which do not in his opinion comply with the provisions of Rule 260.

Before forwarding files to the Judges, the Registrar should ensure that the following documents are filed of record:-

- A Notice of Opposition together with the Certificate of Service;
- An Answering Affidavit with proof of service thereof;
- Applicant's Heads of Argument and Proof of Service thereof;
- Respondent's Heads of Argument and proof thereof;
- Notice of set down;
- Draft Order;
- Proof of payment of costs for service of notice of Set-down by the Sheriff;
- Documents have been bound and properly paginated in terms of Rule 227;
- There is an index done in terms of the Rules - for instance each document must be properly labelled or captured instead of being identified as Annexure "1" or Annexure "2".

Once satisfied that the record complies with all the requirements, the Registrar shall refer it to the Judge President or Senior Judge for allocation.

3.8 CHAMBER APPLICATIONS

- A Chamber Application shall be made by means of an entry in the Chamber Book.
- A Chamber Application shall be accompanied by Form 29B duly completed.
- A Chamber Application must be supported by one or more affidavits setting out the facts upon which the Applicant relies.
- Where the Chamber Application is for default judgment in terms of Rule 57 or for other relief where the facts are evident from the record, it shall not be necessary to annex any Supporting Affidavit.



Service of the Chamber Application (Rule 242)

- A Chamber Application shall be served on all interested parties, unless the Defendant or Respondent has previously had due notice of the order sought and is in default.
- A Chamber Application may not be served if the;
 - (i) The chamber matter is uncontentious;
 - (ii) Order sought is for directions or enforcement of any provision of the High Court Rules;
 - (iii) There is risk of perverse conduct, where the other party is likely to act so as to defeat, wholly or partly, the purpose of the application prior to an Order being granted or served.
 - (iv) The matter is so urgent and the risk of irreparable damage to the Applicant is so great that there is insufficient time to give due notice to those otherwise entitled to it;
 - (v) There is any reason, acceptable to the Judge, why such notice should not be given;
- Where the application is not served on interested parties, the Applicant must set out grounds for his belief fully in his affidavit.
- Unless the Applicant is not legally represented, the application shall be accompanied by a certificate from a legal practitioner setting out, with reasons, his belief that the matter is uncontentious, likely to attract perverse conduct or is urgent.

Referral of a Chamber Application

- There are a number of ordinary Chamber Applications that come through the chamber office.
- Examples include Chamber Applications for Default Judgment, Registration of Arbitral Award, Substituted Service, Guardianship and Authority to dispose of a Minor's Immovable Property. The list is endless.
- What an Applicant has to do when filing any of the types, is to properly describe the nature of the application.
- It is incumbent for the Registrar to check and do the following upon receipt of a Chamber Application:-
 - (i) The Registrar issues and allocates a case number to an application filed;
 - (ii) Applicant is referred to the Accounts Department to pay the requisite statutory fee and the receipt must be stapled inside the record cover;
 - (iii) Check if the application has a Founding Affidavit, Certificate/ Return of Service and Draft Order; and
 - (iv) Is paginated and indexed.

3.9 URGENT CHAMBER APPLICATION

- These requirements are generic to every type of a Chamber Application.
- For specific Chamber Applications, such as those involving Default Judgment, Registration of Arbitral Award and those in terms of Rule 249 of the High Court Rules, 1971, requiring a Master's Report, the Registrar is expected to check further if the necessary requirements are met.
- In the case of a Chamber Application for Default Judgment, the Registrar checks for:-
 - (i) Summons and Proof of Payment;
 - (ii) Return of service;
 - (iii) Appearance to defend and whether the *dies induciae* has expired;
 - (iv) A valid notice to plead and intention bar with the effected bar;
 - (v) A certificate of service for the notice to plead and intention bar; and
 - (vi) A draft Order consistent with the summons issued.
- Upon satisfaction that the above requirements are met, the records are referred to a Judge for determination by signing thus endorsing readiness on a checklist.
- Once it has been determined or a query raised, the Registrar communicates the outcome thereof to the Applicant without delay.
- Queries raised by the Judge are dealt with in terms of Practice Direction 2/16, attached hereto.
- If the Registrar raises any queries before referring the record to the judge, he proceeds in terms of the guidelines in implementing Practice Direction 2/16.
- Upon filing of the application, Applicant must pay the Sheriff's costs of service of notice of set-down and the statutory fee as stipulated by the *High Court (Fees) (Civil Cases) Regulations*.
- The Registrar allocates a case number and refers the record to IT for scanning. The record is thereafter referred to the Judge President or Senior Judge for allocation.
- Referral of the record must happen if and when the application is:-
 - Properly titled as such, unless the Applicant is not legally represented, must be accompanied by a certificate of urgency from a legal practitioner setting out, with reasons, his belief that the matter is urgent;
 - Paginated with each page, including every annexure and affidavit numbered consecutively - Rule 227 (1) (c) and signed by the Applicant or his legal practitioner;

- Has an address for service which shall be within a radius of five kilometers from the High Court Registry – Rule 227 (2) (c);
- Where the application comprises more than five (5) pages there must be an index clearly describing each document included and showing the page number or numbers at which each such document is to be found Rule 227 (2) (d);
- Containing a draft of the order sought – Rule 227 (3).

- Where a provisional order is sought ensure that the draft submitted meets the requirements and standard set in Form 29C.
- The Judge's Assistant must without delay communicate directives from the Judge to the parties on the application. That is a notice of set down or a determination as to the urgency of the matter.
- Once set down for hearing, the Judge's Assistant takes the notices to the Sheriff for service to the parties and the Return of Services must be filed on record before the hearing.
- After the hearing, the record is referred back to the Registrar for onward transmission to the typing pool.
- An order granted by the Judge is processed and dispatched to the parties upon payment of the requisite fee.
- For urgent Chamber Applications brought outside normal working hours, the Registrar is guided by Practice Direction 1 of 2003 annexed hereto as Annexure 'HC3'.
- The Registrar will do the following to ensure that matters are dealt with during silent hours:-
 - (i) Prepare a roster with the name and phone number of the duty Registrar, Sheriff and Accountant.
 - (ii) Obtain a roster for duty Judges hearing matters during the silent hours;
 - (iii) Affix the names and phone numbers of duty officers on the notice board easily accessed by Applicants; or avail a copy to the Commissionaire manning the High Court entrance;
 - (iv) Once satisfied that the application meets the requirements of an Urgent Chamber Application outlined above, call the duty Judge and read out to them, the certificate of urgency and the interim relief sought.
 - (v) Prepare Notices of Set-down if directed to do so by the Duty Judge.

3.10 MOTION COURT MATTERS

- (vi) If there are directives given by the Duty Judge, communicate them without delay to the Applicant.

Matters heard by way of motion are set down on notice on the motion roll on selected days. These are unopposed excluding divorce and unopposed divorce.

Setting down of the matters is done:

- (i) In Harare, on any Wednesday, by filing a Notice of Set-down with the Registrar not later than the Thursday preceding the Wednesday of set-down;
- (ii) In Bulawayo, on any Friday, by filing a Notice of Set-down with the Registrar not later than the Tuesday preceding the Friday of set-down;
- (iii) In Masvingo on any Wednesday, by filing a Notice of Set-down with the Registrar not later than the Friday preceding the Set-down;
- (iv) In Mutare on any Thursday, by filing a notice of set down with the Registrar not later than the Friday preceding the Set down.

Preparation of files before and conduct in court

- Prepare the Motion Roll and send it to IT for uploading on the JSC website by Friday before 11:00 hours.
- Number all records in chronological order as they are on the Motion Roll.
- Complete result slips entering the correct names of the parties, case number, names of lawyers appearing for the Applicant/Plaintiff, set-down date, name of Judge and number on the roll.
- Ensure that all judgments to be handed down are available.
- Loudly announce and do a roll call of enrolled matters as they are dealt with.
- Capture all results on the result slip as they are pronounced by the Judge.

Unopposed Divorce

Requirements for such matters are:-

- Summons and Proof of Service;
- Declaration and Proof of Service;
- Affidavit of evidence;
- Original Marriage Certificate or duplicate from the Registrar General's office;
- Consent paper Affidavit of Waiver;
- Draft Order;
- Notice of Set-down;
- Proof of Service of Notice of Set-down, where Affidavit of Waiver is not filed; and

3.11 CHAMBER APPLICATIONS IN TERMS OF RULE 348A (5C)

- Where the Affidavit of Waiver is filed, there is no need for Proof of Service of the Notice of Set-down.
- All applications should be filed within 10 days after service of Notice in terms of Rule 347.
- A Registrar looks for the date when the notice of attachment is served on the owner of the property and the Registrar of Deeds.
- If the application is filed outside the 10 day period, there shall be refusal to accept it, **UNLESS** it is accompanied by an Order for Condonation of late filing issued by a Judge.
- Once the record is accepted as to have been filed within the prescribed time lines, it is referred as an Urgent Chamber Application in terms of Rule 346 (6) to the Judge President/Senior Judge for allocation or any Judge dealing with urgent matters.
- There shall be no exception to this strict requirement of the law.

3.12 WRIT OF EXECUTION

- The process for the execution of any judgment for the payment of money, for the delivery of goods or premises, or for ejection, shall be by Writ of Execution (writ), signed by the Registrar and addressed to the Sheriff or his deputy, in accordance with one or other of Forms Nos. 34 to 41.
- A Registrar must be alive to the following steps when served with a copy of the writ of whatever form:-
 - The requisite fee receipt should be attached to the writ and at least three (3) copies must be submitted.
 - The Registrar processes a writ by first requesting for the relevant record and the order or judgment to check whether the writ is based or founded on a Court Order.
 - The parties captured in the writ must be per the Court Order and the case number must be correct.
 - Once terms of the Court Order are checked, and the writ has been properly formatted as per the relevant form and the terms of the Court Order properly captured, the writ is signed and dispatched.
 - If the writ is not properly formatted it must be referred back for correction by marking on the areas to be corrected.
 - The Registrar, when signing a writ for immovable property where it is found that there are no movables to satisfy the judgment debt, must request for the Deputy Sheriff's *nulla bona* return to be lodged.



3.13 TAXATIONS

Applications for Set-down dates shall be processed within three (3) days of receipt and the Registrar:

- i. Sets down the matter after having had sight of the relevant Court Order which guides on the tariff to be used. This requirement may be disregarded where the bill is between the attorney and his client.
- ii. If there is any point arising over taxation, the Registrar refers the matter to a Judge for direction within three (3) working days of the point arising.

3.14 TIME TO PAY MANAGEMENT

Security of Costs on Appeal (Supreme Court)

- The Registrar superintends the parties in determining Security for Costs on Appeal.
- In the event that the parties fail to agree, the Registrar fixes the amount to be paid in terms of Rule 55 (2) of the **Supreme Court Rules, 2018**.

Costs de Restituendo (High Court)

- Where a writ emanates from a summons for provisional sentence, the Registrar convenes a meeting to determine security *de restituendo*.
- The meeting for such determination is convened within three (3) days of receiving the Writ of Execution concerned.
- The ruling at such meeting is then delivered within three (3) days of the hearing.

Peregrinus Costs (High Court)

- A request for *peregrinus* costs is made in writing to the Registrar.
- The Registrar fixes a date for a meeting for determination of *peregrinus* costs within three (3) days of receiving the request.
- The ruling at such meeting is delivered within three (3) days of the hearing.

3.15 AUTOMATIC CRIMINAL REVIEWS

- The Registrar receives automatic reviews from the Magistrates' Courts and enters them in the Index Book by allocating a case number prefixed 'HCR'.
- Thereafter, records are allocated to every Judge in equal numbers and referred with expediency, in any case within a day of receipt, to the Judges for determination.
- The Receiving Clerk or Judge's Assistant signs against each review record in the register and records them in a file tracking register.
- The Receiving Clerk or Judge's Assistant places the



3.16 BAIL APPLICATIONS

review before the Judge without delay once they are referred by the Registrar.

- Once determined by the Judge, either in the form of directions, queries, confirmation orders and/or judgments, the Clerk or Judge's Assistant makes entries into IT returns and returns the records to the Registrar.
- The Registrar, upon receipt, captures the results and dispatches the records to the Magistrates' Court without delay, in any event within a day of receipt.

- Bail applications shall be attended to without delay. The applications shall be set down for hearing within 48 hours of filing in terms of High Court of Zimbabwe (Bail) Rules 1991.
- Regard must be had to Rules 65 to 69 of the Supreme Court Rules, 2018 and Rule 5 (2) of High Court of Zimbabwe (Bail) Rules 1991.
- Upon receipt of an application for bail the Registrar does the following:-
 - Checks whether the application complies with general provisions for all applications as highlighted above.
 - The Applicant must bring at least 3 (three) copies for issuance.
 - Allocates a case number to the application.
 - Stamps the application.
 - Refers the Applicant to serve the Respondent but retaining one copy that is returned upon lodging of an application that bears two stamps.
 - Sets down the matter within 48 hours or 96 hours if it is an appeal against refusal to grant bail by the Magistrate or appeal against a condition of recognizance respectively.
 - Puts the record in a cover and enrolls it on the next Court Roll available.
 - Posts the prepared Court Roll on the notice board, given to Zimbabwe Prison and Correctional Service, the National Prosecuting Authority and the Judge's Assistant.
 - Retains a hard copy for the legal practitioners and the public in the registry.
 - Records all the files and refers them to a Judge.
 - Receives State responses and refers them to a Judge.
 - After hearing, the Registrar enters all the results and refers records with orders to the typing pool.
 - Proof-reads the orders from the typing pool.
 - Prepares a schedule of bails granted to be forwarded to the National Prosecuting



3.17 VERIFICATION OF ORDERS

3.18 CRIMINAL TRIALS

Authority.

- Signs typed bail orders.
- Records granted bail orders in a dispatch register to the Police and Zimbabwe Prison and Correctional Service.
- Confirms to the Clerk of Court on bail orders granted, through the phone.

- All orders from the High Court are verified through checking of the order in the file.
- The Registrar verifies on the same day an enquiry about an order said to be from the High Court.

- Upon indictment of an accused person for trial at the High Court and as soon as the indictment papers are duly lodged with the Registrar of that court, such case shall be deemed to be pending in that court.

- The Registrar is then expected to do the following:

- i. Make an entry of the record in the Criminal Record Book (CRB) by allocating a case number.
- ii. Check the option that an accused person chose to prepare their defence. That is whether they wish to be provided with a *pro deo* counsel or engage their own defence counsel.
- iii. If they opted for a *pro deo* counsel, the Registrar then allocates the matter to a lawyer appearing on the *pro deo* register.
- iv. The Registrar sends out State papers to the defence counsel (*pro deo*/paid counsel) to prepare the defence outline.
- v. Once appointment and dispatch of the State papers has been done, the Registrar refers the record to the trial Judge.
- vi. The Registrar also allocates two assessors for each matter from a duty roster.
- vii. If the accused person is in custody, the Registrar arranges for the defence counsel to interview them, by making a request to the ZPCS a day before the scheduled date.
- viii. The Registrar receives and stamps three (3) copies of the accused's defence outline and forwards them to the trial Judge.
- ix. Upon submission of subsequent pleadings, the Registrar stamps them and forwards them to the trial Judge.
- x. At the start of the trial, the Registrar dispatches exhibits, if any are tendered to the court, to the

3.19 APPEALS FROM FROM THE MAGISTRATES COURT

Court Orderly who signs for them in an exhibit collection register.

xi. Upon conclusion of the trial, the Registrar records the results in the CRB book and disposes any exhibits as per the process outlined below.

- Notices of Appeal are accepted and issued within the timelines stated in the Rules and the guidelines in the Joint Circulars No. 1 and 2 of 2013 annexed.
- Appeals that are noted at the High Court are both civil and criminal in nature with a procedure of noting that is quite generic from the time they become duly noted.

The procedure hereunder is followed:-

- The Registrar accepts and issues out an appeal noted within prescribed timelines by counting the number of days from the date a decision was made.
- If it is within the *dies induciae*, the appeal has to bear a stamp from the court *a quo* before a stamp from the High Court is put.
- The Registrar then directs the Appellant to have the appeal stamped at the National Prosecuting Authority while retaining one copy, which will be returned upon lodging of a copy with three (3) stamps from the court *a quo*, the National Prosecuting Authority and the High Court.
- For civil appeals, it has to bear two (2) stamps only.
- Once stamped copies are submitted, the Registrar advises the Appellant to return seven (7) copies to the court *a quo* to enable preparation of the record.
- The Registrar will put the Notices of Appeal in pigeon-holes with designated slots marked 1 to 31, counting the 20 days that a record must be forwarded to the Registrar in terms of the Rules.
- If no record has been forwarded from the Magistrates' Court upon lapse of the 20 day period, the Registrar writes a follow-up letter to be dispatched to the Magistrates' Court.
- If a record is received, the Registrar checks whether there are:-
 - i. Sufficient copies, i.e. six (6) (original and photocopies), duly inspected as true and correct copies of the record of proceedings.



3.19 APPLICATIONS FOR LEAVE TO APPEAL OUT OF TIME / CERTIFICATE TO PROSECUTE APPEAL IN PERSON

- ii. Properly paginated pages corresponding with the index.
- iii. Properly marked exhibits.
- iv. Signed reasons for sentence.
- v. Statutory receipts for fees paid towards transcription, security costs (civil appeals) and costs for service of notice of set-down by the Sheriff.

■ The Registrar, if satisfied that the above requirements have been met, requests the Appellant to file Heads of Argument within 15 days by dispatching the notices to the Appellant in compliance with Rules 22, 24(2) and 25 of the Supreme Court (Magistrates Court) (Criminal Appeals) Rules 1979 and the provisions of the Magistrates Court Civil Rules, 1980 as read with Rule 64 of the Supreme Court Rules, 2018.

■ Once Heads of Argument are received, the appeal is thereafter set down for hearing on a first-in-first-out basis.

■ Where there is non-compliance, the Registrar dismisses the appeal by dispatching a notice together with the record, to the court *a quo* advising them of such failure and subsequent dismissal to enable them to execute their judgment.

■ If the matter is heard in court and a decision is made, the Registrar will upon receipt of the record, enter the results in the Index Book, dispatch copies of the record (original and four (4) photocopies) together with the judgment or order of the court to the Magistrates' Court to enable execution of the judgment made.

■ The Registrar will complete a warrant of liberation without delay once the court adjourns if the judgment of the court *a quo* is set aside and Appellant is acquitted. (*This depends on whether the Appellant is in custody or not.*)

■ If an accused person is out of time to note an appeal, an application for leave to note an appeal is lodged in the registry. The procedure is as follows:-

The Registrar

- Checks whether the application complies with general provisions for all applications as highlighted above. The Applicant must bring at least three (3) copies for issuance.
 - Allocates a case number to the application.
 - Stamps the application.
 - Refers the Applicant to serve the Respondent but retaining one copy that is returned upon lodging of an application that bears two stamps.

3.21 APPEALS TO THE SUPREME COURT

- Puts the record in a cover and refers it to a Judge for determination, either at the lapse of four (4) days without a State response or with a State response.
 - The Registrar refers the record upon being furnished with a Proof of Service by the Applicant.
 - Once a determination has been made, the Registrar enters all the results and refers records with orders to the typing pool.
 - The Registrar proof-reads the orders at the typing pool.
- Serves the order on the Applicant as outlined in Item (iii) of the General Circular 1 of 2013 by the Chief Registrar.
- Appeals to the Supreme Court are treated as urgent matters and the Registrar ensures that the record is prepared and forwarded to the Supreme Court and dealt with in accordance with Rules 17, 23, 25, 36 and Rule 46(1) of the Supreme Court Rules, 2018.
- Preparation of the record by the Registrar follows the following procedure once a notice of appeal is duly served by the Appellant:-
- The Registrar requests for the record from the Registry.
 - The Registrar checks if there are reasons for judgment or not.
 - If there are no reasons for judgment, a request is made in writing to the Judge to avail them.
 - The Registrar also checks if there is a transcript in the record particularly for a trial or matter on the Continuous Roll.
 - If there is no transcript, he refers the record to the transcribers for transcription.
 - Once the record is transcribed or pleadings necessary for the appeal record are arranged, the Appellant is invited to pay costs of preparing the record as determined by the Registrar.
 - After preparation of the record has been completed, parties are invited to inspect the record.
 - Thereafter, the Registrar dispatches the record to the Supreme Court.

3.22 MANAGEMENT OF EXHIBITS

Receipt and labelling

- The Registrar receives any article required for the purpose of evidence or as a result of any order of the court and cause an entry to be made in the Exhibit Book/Register.

3.23 LEGAL PRACTITIONERS CERTIFICATES

- The article is labelled with the name of the accused or parties, the CRB number and the exhibit entry number.

Storage and retrieval

- The Registrar places into custody properly marked exhibits in a safe and secured room, separating high value exhibits from non-valuable exhibits. (*Retrieval process must conform to the requirements set out under file tracking*)

Disposal and procedure where there is no disposal order

The Registrar is guided by the provisions of Section 61 of the **Criminal Procedure and Evidence Act** [CAP 9:07] in disposing of exhibits with or without disposal orders.

- The Registrar liaises with the Judge who dealt with matter or the Senior Judge to give disposal orders.
- Once the disposal orders have been given, disposal without delay follows by inviting the Police who tendered the exhibits to collect them and dispose of them as per the court order.
- If the disposal method is by incineration, the Registrar invites the National Prosecuting Authority and the Police to witness the disposal.
- Thereafter, each witness signs in the Exhibit Book as confirmation of the disposal.

Forfeiture of goods to the State

If within three (3) months there is no disposal order made by the court nor action by the Registrar to hand over the article to anyone, the exhibit is forfeited to the State in accordance with the proviso in section 61(3) of the **Criminal Procedure and Evidence Act** [CAP 9:07].

- If any application for a certificate is made following registration of one as a legal practitioner, notary public and or conveyancer, the following steps are taken to process the certificates:-
 - An Assistant Registrar forwards a record to the typing pool once the payment and proof thereof has been furnished.
 - Upon collection from the typing pool, the certificates are referred to the Registrar for signing together with the record.
 - After the Registrar has signed the certificate, notify the Applicant in writing to call in and collect their certificate(s).
 - The person collecting the certificate(s) signs as acknowledgment of receipt in a collection register in the motion office.

3.24 STATISTICS AND CASE MANAGEMENT

- The Assistant Registrar records and keeps register of certificates collected and uncollected.

- Weekly and monthly statistics are compiled and submitted to the Registrar without fail. The entries made should cover matters received and completed by the Judges and Registrar.

The procedure is as follows:-

- Individual Judge's statistics entries are made into a Judge's weekly statistical report form.
- The completed Judge's weekly form is forwarded to the Registrar and Statistician for consolidation.
- The consolidated statistical report is forwarded to the Judge President, Senior Judge and the Chief Registrar for onward transmission to the Secretariat.
- A Judge's Assistant/Clerk lists and prepares an inventory of reserved judgments, partly heard matters and reviews pending for more than three (3) months giving the age analysis.
- The Judge's Clerk/Assistant who compiles the statistics signs for the compilation. Thereafter, the Judge verifies the statistics and endorses correctness by appending their signature.
- A record or register of the reports shall be kept by everyone.
- A record or register of matters postponed *sine die*, removed and struck off the roll shall be kept by the Registrar who diarises the expiration dates to further manage the matters.

I.T Returns

- Information captured must be correct and meaningful and the returns must be done and submitted in duplicate.
- Judge's Assistant/Clerks and Registrars submit signed daily returns by 4.30 pm.
- Entries in the IT Daily Returns Register to be signed upon submission.
- The Judge's Assistant/Clerks and Registrars to capture queries by Judges in brief on the daily returns. (*Under no circumstance shall a return state, "query raised or matter pending"*).

Dealing with queries in Chamber applications

- In order to bring finality to litigation in chamber matters, the Registrar manages queries by Judges by keeping a register of such matters to be updated regularly.
- The Registrar advises the Applicant of the queries

3.25 MONITORING AND EVALUATION

raised by the Judge the moment the record returns by sending out a notice.

- The Registrar diarises the 30-day period that an Applicant has to attend to a query.
- Upon lapse of the 30-day period without any rectification of the query, the Registrar refers the record to a Judge for dismissal.
- Thereafter, the Registrar advises the Applicant of the dismissal.

(Annexed hereto are standard letters for managing chamber applications in terms of Practice Direction 2/16- Annexure 'B').

Dealing with Matters Struck off the Roll, Removed from the Roll or Postponed *sine die*

- To ensure uniform use of the terms Struck off the Roll, Removed from the Roll or Postponed *sine die* and sanction parties who fail to comply with the court's directives, Practice Direction 3/13 empowers the Registrar to manage the matters and rid the system of inactive and uncompleted matters.
- The Registrar does the following in implementing the dictates of Practice Direction 3/13 annexed hereto as Annexure 'A':-
 - The Registrar makes use of the attached standard letters and guidelines marked Annexure 'A'.
 - The Registrar advises the concerned party that a matter has been struck off the roll/removed from the roll/postponed *sine die* by the Judge the moment the record returns by sending out a notice.
 - The Registrar gives the concerned party 30 days to set down the matter calculated from the date of postponement/removal from the roll or struck off the roll.
 - The Registrar diarises the 30-day period that a party has to set down the matter by recording it in a register.
 - Upon lapse of the 30-day period without the matter being set down, the Registrar notifies the parties in a notice deeming the matter abandoned and lapsed.

Station visits

- The Registrar conducts announced and unannounced station visits on a quarterly basis as stipulated in the Chief Registrar's General Circular 1 of 2013 or on lawful instructions from Superiors.



CHECKING OF REGISTERS COMPLAINTS

- The Registrar conducts continuous assessment of Registry operations including checking all registers.
- Every complainant shall register their complaint with the Registrar in writing and the Registrar does the following:-
 - Responds to all correspondences/ complaints in writing within three (3) working days in accordance with General Circular Number 1 of 2013.
 - Acknowledges receipt of the complaint and advises the complainant of the course of action adopted where it is impracticable to give a conclusive response within three (3) working days due to the magnitude of the investigations to be carried out.
 - The Registrar reverts to the complainant within 14 working days at most as standard practice.

LABOUR COURT OF ZIMBABWE

PROCEDURE WHEN RECEIVING APPEALS, REVIEWS, APPLICATIONS AND CHAMBER APPLICATIONS

4.1 APPEALS

- The Appellant must file at least three (3) copies of the Notice of Appeal on Form LC 4, within 21 days from the date the Appellant received the decision, determination, direction or award (Rule 19).
- The Registrar checks if the appeal is being filed on time, on the correct form, the addresses for all the parties are captured, if the appeal falls within the jurisdiction it is being filed and the cause of action.
- Address for Appellant shall be within a radius of 25 km from Registry (Rule 7).
- Must check if the application is properly paginated and annexures are clearly marked in terms of Rule 21.
- The Registrar issues a Case Number and directs the litigant to the Sheriff's office with a *pro forma* form for payment of their costs for the notice of set-down together with the application fees.
- Appellant must pay Sheriffs costs for service of notices of set down (Rule 28).
- After payment, the Registrar issues and stamps the appeal and retains one copy for the record. Signature must be endorsed on the date stamp.
- The Registrar captures the details of the appeal on the jacket and in the Index Book filling in all the columns as shown below-

Case Number	Parties	Process	Cause of action	Date of process	Appellant and Respondent
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Notice of Response

- The Registrar sends the file to the IT Department for capturing. Thereafter, it is sent to the Registry for filing.
- The Appellant must serve the issued copies personally either through his agent or the Sheriff of the High Court and provide Proof of Service, as required by Rule 11.
- The Respondent must file at least three (3) copies on Form LC2.
- The Respondent must respond within the *dies induciae* of 10 days of receipt of the appeal- Rule 19 (2).
- If the Appellant is not legally represented, he/she must file Heads of Arguments simultaneously with the Notice of Response in terms of Rule 26 (3) (a).
- The Respondent must file proof of service of the Notice of Response as required by Rule 11.



<p>Appellant's Heads of Argument</p>	<ul style="list-style-type: none"> ■ The Appellant must file at least three (3) copies with the Registrar. ■ The Appellant must file within the <i>dies induciae</i> of 10 days of receipt of the Notice of Response as required by Rule 26 (1) (a). ■ The Appellant must file Proof of Service of the Heads of Argument as required by Rule 11.
<p>Respondent's Heads of Argument</p>	<ul style="list-style-type: none"> ■ The Respondent must file at least three (3) copies with the Registrar. ■ The Respondent must file within the <i>dies induciae</i> of 10 days of receipt of the Appellant's Heads of Argument (Rule 26 (3) (a)). ■ The Respondent must file proof of service of the Heads of Argument as required by Rule 11.
<p>Record of proceedings</p>	<p><i>(Where an Appellant is not to be represented at the hearing by a legal practitioner or representative, he or she MAY lodge Heads of Arguments with the Registrar, in which event they have to comply with the Rules. (Rule 26 (5)).</i></p> <ul style="list-style-type: none"> ■ The Registrar must check if the record of proceedings is attached to the appeal. If there is no record of proceedings, the Registrar is to write a standard letter requesting for the record of proceedings (See Annexure LC1).
<p>Set-down</p>	<ul style="list-style-type: none"> ■ The Registrar must check if the matter is ready for set down using a checklist (See Annexures LC2 & LC3). ■ The Registrar must ensure that the record is paginated and indexed before it is referred to the Senior Judge for allocation of the Set-down date. ■ The Registrar must invite the parties to paginate the record and index it according to Rule 21 through a standard letter. ■ Once the file is ready for Set-down, it is then referred to the Senior Judge for allocation to Judges for Set-down. ■ After allocation, notices of Set-down are sent to the Sheriff's office for service to the parties involved (Rule 8). ■ Notices of Set-down should be received by the parties at least five (5) days before the Set-down date. ■ Any party aggrieved by the decision of the Labour Court may appeal to the Supreme Court in terms of Rule 43.

4.2 REVIEWS

- The Applicant must file at least three (3) copies of notice of review on Form LC 5, within 21 days from the date when the proceedings are concluded.
- The Registrar checks if the review is being filed on time; on the correct form; the addresses for all the parties are captured; if the appeal falls within the jurisdiction it is being filed and the cause of action.
- Address for Appellant shall be within a radius of 25 km from Registry (Rule 7).
- The Registrar issues a case number and directs the litigant to the Sheriff's office with a pro forma form for payment of their costs for the notice of set-down together with the application fees.
- Appellant must pay Sheriff's costs for service of notices of set down (Rule 28).
- After payment, the Registrar issues and stamps the review and retains one copy for the record. Signature must be endorsed on the date stamp.
- The Registrar captures the details of the appeal on the jacket and in the index book filling in all the columns as shown below-

Case Number	Parties	Process	Cause of action	Date of process	Appellant and Respondent
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Notice of Response

- The Registrar sends the file to the IT Department for capturing. Thereafter, it is sent to the Registry for filing.
- The Appellant must serve the issued copies personally either through his agent or the Sheriff of the High Court and provide proof of service as required by Rule 11.
- The Respondent must file at least three (3) copies on Form LC2.
- The Respondent must respond within the *dies induciae* of 10 days of receipt of the review -Rule 20 (2).
- If the Applicant is not legally represented, the Respondent shall file Heads of Argument simultaneously in terms of Rule 26 (3) (a).
- The Respondent must submit Proof of Service of the Notice of Response as required by Rule 11.

Applicant's Heads of Argument

- The Applicant must file at least three (3) copies with the Registrar.
- The Appellant must file within the *dies induciae* of 10 days of receipt of the notice of response (Rule 26 (1) (a)).
- The Applicant must submit proof of service of the Heads of Argument as required by Rule 11.
- The Respondent must file at least three (3) copies to the Registrar.



<p>Respondent's Heads of Argument</p>	<ul style="list-style-type: none"> ■ The Respondent to file within the <i>dies induciae</i> of 10 days of receipt of the Applicant's Heads of Argument (Rule 26 (3) (a)). ■ The Respondent must file proof of service of the Heads of Argument, as required by Rule 11. <p><i>(Where an Applicant is not to be represented at the hearing by a legal practitioner or representative, he or she MAY lodge Heads of Arguments with the Registrar, in which event they have to comply with the Rules (Rule 26 (5)).</i></p>
<p>Record of Proceedings</p>	<ul style="list-style-type: none"> ■ The Registrar must check if the Record of Proceedings is attached to the review. If the Applicant does not have the Record of Proceedings, the Registrar is to write a standard letter requesting for the Record of Proceedings (See Annexure LC1).
<p>Set-down</p>	<ul style="list-style-type: none"> ■ The Registrar must check if the matter is ready for Set-down using a checklist (See Annexures LC2 & LC3). ■ The Registrar must ensure that the record is paginated and indexed before it is referred for allocation of the Set-down date. If not, Registrar must invite the parties to paginate the record and index it according to Rule 21 through a standard letter. ■ Once the file is ready for set-down, it is then referred to the Senior Judge for allocation to the Judges for set down. ■ After allocation, notices of set-down are sent to the Sheriff's office for service to the parties involved. ■ Notices of Set-down must be received by the parties at least five (5) days before the Set-down date.
<p>4.3 CHAMBER APPLICATIONS AND COURT APPLICATIONS</p>	<ul style="list-style-type: none"> ■ Any party aggrieved by the decision of the Labour Court may appeal to the Supreme Court in terms of Rule 43. ■ The Applicant must file at least three (3) copies of the application either in Form LC1, LC11, LC12 or LC13. ■ The Registrar must check if the application is prepared in terms of the relevant form and whether the affidavit/s is/are commissioned and signed. ■ Address for Applicant shall be within a radius of 25 km from Registry (Rule 7). ■ Must check if the application is properly paginated and annexures are clearly marked in terms of Rule 21.

Application for Rescission of Default Judgment or Correction of Reinstatement

Leave to appeal to Supreme Court

URGENT CHAMBER APPLICATION

- The Registrar issues a case number and directs the litigant to the Sheriff's office with a *pro forma* form for payment of their costs for the Notice of Set-down, together with the application fees.
- Appellant must pay Sheriff's costs for service of notices of set down (Rule 28).
- After payment, the Registrar issues and stamps the appeal and retains one copy for the record. Signature must be endorsed on the date stamp.
- The Registrar captures the details of the appeal on the jacket and in the Index Book filling in all the columns as shown below-

Case Number	Parties	Process	Cause of action	Date of process	Appellant and Respondent
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- The Registrar sends the file to the IT Department for capturing. Thereafter, it is sent to the Registry for filing.
- The Applicant must serve the issued copies personally either through his agent or the Sheriff of the High Court and provide proof of service as required by Rule 11.
- Applicant shall serve the application within five (5) days and file proof of same with the Registrar within 10 days of service in accordance with Rule 11 and Rule 14 (4).

(In the applications listed below, the following requirements must be complied with including the above -mentioned requirements.)

- The Applicant must file a set of at least three (3) copies of the application within 21 days from the date after which they acknowledge receipt of the order/ judgment or abandonment notice.
- The decision to be rescinded, corrected, or letter of abandonment must be attached to the application.
- The Appellant must file a set of at least three (3) copies of the application within 21 days from the date of the order or judgment.
- The draft of the intended appeal should be attached to the application.
- A Certificate of Urgency must be attached.
- Upon receipt of the Urgent Chamber Application, the Registrar shall immediately refer the application to a Judge on Duty for directions. A Judges' Duty roster with contact numbers must be kept.
- The Judges' directive on the application must be immediately actioned without any undue delay by the Registrar.



<p>Condonation and Extension of Time within which to Note Appeal/Review</p>	<ul style="list-style-type: none"> ■ The Judgment to be appealed against must be attached. ■ The Draft Notice of Appeal/Review to Labour Court must form part of the application. ■ The Respondent must file at least three (3) copies on form LC3.
<p>Notice of Opposition</p>	<ul style="list-style-type: none"> ■ The Respondent must respond within the <i>dies induciae</i> of 10 days of receipt of the application on form LC3- Rule 15 (6), Rule 16 (5) ■ If the Applicant is not legally represented, the Respondent may simultaneously file the Notice of Opposition and the Heads of Arguments (Rule 15 (6)). ■ The Respondent must file proof of service of the Notice of Response as required by Rule 11.
<p>Applicant's Heads of Argument</p>	<ul style="list-style-type: none"> ■ The Applicant must file at least three (3) copies to the Registrar. ■ The Applicant must file within the <i>dies induciae</i> of 10 days of receipt of the notice of response (Rule 26 (1) (a)). ■ The Applicant must file proof of service of the Heads of Argument in terms of Rule 11.
<p>Respondent's Heads of Argument</p>	<ul style="list-style-type: none"> ■ The Respondent must file at least three (3) copies to the Registrar. ■ The Respondent must file within the <i>dies induciae</i> of 10 days of receipt of the Appellant's Heads of Argument -Rule 26 (3) (a). ■ The Respondent must file proof of service of the Heads of Argument in terms of Rule 11. <p><i>(Where an Appellant is not to be represented at the hearing by a legal practitioner or representative, he or she MAY, lodge Heads of Arguments with the Registrar, in which event they have to comply with the Rules (Rule 26 (5)).)</i></p>
<p>Set-down</p>	<ul style="list-style-type: none"> ■ The Registrar must check if the matter is ready for Set-down using a checklist (See Annexures LC2 & LC3). ■ The Registrar must ensure that the record is paginated and indexed before it is referred for allocation of the set down date. ■ The Registrar must invite the parties to paginate the record and index it according to Rule 21 through a standard letter. ■ Once the file is ready for Set-down, it is then referred to the Senior Judge for allocation to Judges for Set-down.

Referral of matters in Chambers

- After allocation, Notices of Set-down are sent to the Sheriff's office for service to the parties involved (Rule 28).
- Notices of Set-down shall be received by the parties at least five (5) days before the set-down date.
- The Registrar must check if the matter is ready for referral to a Judge in Chambers.
- The Registrar must ensure that the record is paginated and indexed before it is referred.
- Record the matter in a Chamber Referral Register and allocate the Judge to consider the matter in Chambers.
- Update the register once the Judge finalises the matter.

Hand down of judgments

- Judgments are handed down every fortnight on a Friday.
- Before the hand down date, the Judge's Clerk or Assistant must notify the parties of the hand down date and the amount required to uplift the judgment.
- The Registrar must go through all the judgments identifying any errors, directions by the Judges and act according to the dictates of the judgments.
- The judgments to be handed down must be captured in the Judgments Register.
- Before uplifting the judgment, the parties must pay the requisite fees and they must present the receipt upon collection of their judgment.
- Upon uplifting the same, the parties must acknowledge receipt of such judgment in the Judgments Register.
- The Registrar must update the Index Book with the outcome before the file is referred to the Registry for filing.

Hand down of orders

- Orders are handed down every week on a Wednesday.
- Before the hand down date, the Judge's Clerk/Assistant must notify the parties of the hand down date and the amount required to uplift the order.
- The Registrar must go through all the orders identifying any errors, directions by the Judges and act according to the dictates of the orders.
- The orders to be handed down must be captured in the Orders Register.
- Before uplifting the order, the parties must pay the requisite fees and they must present the receipt upon collection of their order.



**4.4 CASE
MANAGEMENT MATTER
POSTPONED SINE DIE
OR REMOVED FROM
THE ROLL**

**WITHDRAWAL/DEED
OF SETTLEMENT**

**RESCISSION OF
DEFAULT JUDGMENT/
REINSTATEMENT OF
MATTERS**

**ABANDONMENT OF
MATTERS**

- Upon uplifting the same, the parties must acknowledge receipt of such order in the Orders Register.
- Registrar must update the Index Book with the outcome before the file is referred to the registry for filing.

(Any party aggrieved by the decision of the Labour Court may appeal to the Supreme Court in terms of Rule 43)

- When a matter has been postponed *sine die* or Matter removed from the roll, in terms of Rule 35 (3) or Paragraph 10 of Practice Directive No. 3 of 2013, the Appellant must set down the matter within three (3) months.
- Failure to set down the matter within that period will result in the matter being deemed abandoned thus the Registrar must write to the Appellant/Applicant notifying him or her of the same.
- Where a matter has been postponed *sine die* or removed from the Roll in terms of Rule 35 (2) or with directions within the prescribed timeframe in terms of Paragraph 8-
 - Upon failure by such party to comply, the Registrar shall forthwith advise the party of the non-compliance and call upon the party to rectify the defect within 30 days in terms of Paragraph 9.
 - If the party does not rectify the defect within the 30 days, the matter shall be deemed abandoned thus, the Registrar must then write to the party to notify him or her that the matter has been deemed abandoned. Rectification must be done by way of application for reinstatement.

(Refer to Annexure "A" for Practice Direction 3 of 2013.)

- Where a notice of withdrawal or deed of settlement is filed, the Registrar must immediately refer the matter to a Judge for an appropriate order (Rule 27).
- Where a default order has been rescinded or a matter is reinstated, the Registrar must process the matter for set down, first by requesting for Sheriff's fees and thereafter setting the matter down.
- The Registrar must regularly check files for proof of service of applications/appeals and filing of Heads of Arguments by Appellants/Applicants.

4.5 SUPREME COURT APPEALS

- Upon failure by the Appellants/Applicants to file proof of service or Heads of Arguments according to the Rules, the Registrar must write to the parties notifying them of the abandonment of their matters according to Rule 46.

(Refer to Annexure "LC4" for standard letters used to deem matters abandoned.)

- It is the duty of the Registrar to prepare the record to the Supreme Court as soon as they receive the Notice of Appeal and in any case within the period stipulated in Rule 60 of the Supreme Court Rules, 2018.
- If the appeal is out of time, an order granting condonation and extension of time should be attached.
- Upon receipt of the Notice of Appeal, the Registrar immediately refers the record for typing of transcript and signing of transcript by the Judge.
- Once the transcript is signed, the record is paginated and indexed according to Rule 16 and 17 of the Supreme Court Rules, 2018 and the parties are invited to inspect the record.
- If the Appellant fails to inspect the record according to Rule 17 (12) of the Supreme Court Rules, 2018, the Registrar has to notify the Registrar of the Supreme Court.
- After inspection, the Registrar writes a letter to invite the Appellant to pay costs for the photocopying of the record according to Rule 46 (1) of the Supreme Court Rules, 2018 using a standard letter.
- If the party fails to pay within five (5) days, the Registrar writes a letter to the Registrar of the Supreme Court using another standard letter notifying them of the non-compliance.
- If the Appellant has paid the photocopying costs, the record is **photocopied without undue delay** - four (4) copies for the Supreme Court, a copy for every party involved, and thereafter the copies for the Supreme Court are dispatched.

(NB Refer to annexures "LC5 & LC6" for standard letters written to parties.)

REMITTED FILES FROM SUPREME COURT

- As soon as the Registrar becomes aware of the Supreme Court order, he/she is to process the matter according to the directions of the order so that it is set down and processed to finality.
- Request for Set down fees in terms of Rule 28 must be done by the Registrar to enable set-down.



STATISTICAL REPORT

- The Registrar must compile an accurate statistical report at the end of every calendar month, every quarter and every year.
- The statistical report must capture matters brought forward from the previous period, matters received and completed during the period under review and finally how many matters are carried forward.
- The respective Judges are to confirm the accuracy of the statistics and authorises the Judge's Clerk or Assistant to forward the statistics to the Registrar for compilation.
- The statistical report must capture inventory of judgments reserved.
- A weekly postponed matters inventory must also be compiled.

4.6 MAINTENANCE OF THE REGISTRY OFFICE

4.11 Filing

- All files in the Registry must be properly classified. The Registrar is to allocate clearly labelled shelves in the Registry Office for each file category.
- All files are to be filed in their properly labelled shelves according to their year of filing and according to their nature i.e. appeals, reviews and applications should be filed separately.
- Pending files should be separated from completed files.
- All records must be filed back correctly in their respective slots soon after any attendance or filing.

4.12 Filing of Pleadings

- Pleadings must be filed according to their case numbers and avoid misfiling.
- All pleadings must be filed after being captured by the IT Department within the same day.

4.13 File Management

- The Registrar must make regular weekly physical checks on all pending matters and endorse instructions on records that are ready for Set-down to be actioned.
- There should be constant liaison with parties especially where filing of proof of service of Notice of Response and Heads of Arguments is concerned.

4.7 MISCELLANEOUS

4.14 Processes or Documents Lodged

- Before acceptance of processes or documents, a thorough check of each document being lodged must be made to ensure that it complies with the Court Rules.

- If the process or application is in order, issue it by stamping and signing all copies.
- Names of parties should appear on the outside cover in full.
- Where there are two or more Respondents, the file cover should correctly reflect the names of all the parties.
- The addresses for all the parties should be captured which addresses for service shall be within a radius of 25 kilometres.
- An application, appeal, review or notice of opposition exceeding five pages should contain an index.
- All documents must be clear and easily legible.
- Where documents are not in the English language, an English version should accompany such documents.

4.15 Fees

- All Labour Court fees must be paid before any application is processed or an order or judgment is issued to a litigant.
- Receipt for the fees paid must be attached in the inside cover of the record.
- Sheriff's fees must also be paid before an appeal, application or review is issued.

4.16 Photocopying of Documents

Where a litigant requests to photocopy a document filed with the Registrar's office, a prescribed fee must be paid first.

4.17 Filing

- All pleadings, correspondences or mail received shall be filed in the relevant file on date of receipt and the Registrar must ensure that there is no misfiling of pleadings in the Registry.
- Random checks must continuously be conducted to inculcate a culture of thoroughness in the Registry.

4.18 Movement of files

- Where files are transferred from one office to another, this must be done by members of staff only.
- Clients are not supposed to be given files for transmission to other offices.
- Members of staff must sign for every file they receive in the File Tracking Register.

4.19 National Archives

- Pending files must not be sent to National Archives even if such a file is within the range of files due for archiving. Only completed files shall be sent for archiving.
- A register of requested files shall be completed on the date each file is requested from National Archives.

General Customer Care

4.20 Telephone

- Telephone shall be answered within three (3) rings.
- Members of staff are to restrict time spent on the telephone and are to observe telephone manners by being calm and professional.

4.21 Public Relations

- Handle inquiries professionally and understand issues raised by clients before taking any action.
- If there is a delay in locating a file notify the client and offer an apology.
- A culture of respect, teamwork and professionalism shall always guide members of staff in their interaction with clients.

4.22 Response to queries and complaints

- All letters written to the Registrar shall be responded to by the Registrar within a period of three (3) working days.

4.23 Judgments

- The Judges' Clerks or Assistants are required to advise parties when judgment is being delivered by the Judges.
- The Registrar must ensure that all Judges' Clerks or Assistants comply with this directive.

4.24 Missing Records

- Where any court record goes missing, that fact should be brought to the attention of the Registrar by way of a memorandum.
- The Registrar is required to ensure that diligent search is carried out and advise the parties accordingly.

4.25 Taxation

- Applications for Set-down dates shall be processed within three (3) days of receipt, and this should be done after payment of relevant fees.
- No taxation shall be set down without the Registrar having had sight of the relevant Court Order, which should guide the tariff to be used.

- This requirement may be disregarded where the bill is between the attorney and his client.
- The Registrar shall refer any point arising at a taxation for direction by a Judge in chambers within three (3) working days of the point arising.
- The tariff for use at the Labour Court is the Magistrates' Court tariff applicable during that time, unless the Judge directs otherwise.

ADMINISTRATIVE COURT OF ZIMBABWE

5.1 APPEALS PROCESS FROM TRIBUNALS

- Appeals from Tribunals are filed in terms of Rule 4 of the Administrative Court (Miscellaneous Appeals) Rules, 1980.
- An appeal to the Administrative Court reviews the decisions or the proceedings of any tribunal, board or officer performing judicial or administrative functions. When an appeal is being lodged, the Registrar undertakes a thorough check and ensures that a Notice of Appeal complies with the following:-
 - a. That the notice has been served/delivered to the Presiding Officer of the Tribunal whose decision is being appealed against (Rule 4(1));
 - b. That the Notice of Appeal cites the concerned Presiding Officer or Chairman of the Tribunal whose decision the Appellant seeks review of.
 - c. That other parties concerned in the same matter have been clearly cited;
 - d. That the Notice of Appeal states the following requirements provided in Rule 7:-
 - i. The tribunal whose decision is appealed against;
 - ii. The date on which the decision was given;
 - iii. The grounds of the appeal;
 - iv. The exact nature of the relief sought;
 - v. The address of the Appellant or his legal representative.
 - e. That the appeal is within the prescribed timelines of 30 days provided in the Rules (Rule 5).
 - f. The Registrar must not accept for issuing an appeal which is out of time unless condonation for late noting of appeal and extension of time has been granted (Rule 6).
 - g. That the appeal is dated and signed by the Appellant or the legal practitioner.
 - h. That Notice of Appeal and all other attachments or documents to be issued are clearly legible. Illegible documents cannot be accepted.

ISSUING OF NOTICE OF APPEAL

- If the Registrar is satisfied that the Notice of Appeal complies with all the requirements, he or she issues the Notice of Appeal by complying with the following procedures:-
 - a. Allocates the next case number and inserts the case number on all the copies of the issued process and the file cover;
 - b. Ensures that the stamp fees and Sheriff's costs are paid;

<p>SERVICE OF APPEAL</p>	<p>c. Stamps all the notices with the correct date; d. Ensures that the case number, names of parties, date of filing, Tribunal <i>a quo</i>, relief sought and Appellant’s legal representation are entered in the Administrative Court Index Book; e. The Registrar retains three (3) copies of the issued Notices of Appeal as the Judge sits with two Assessors.</p> <ul style="list-style-type: none"> ■ The Notice of Appeal must be served on the Presiding Officer and the Respondents as per the specific addresses provided in the copies of the Notice of Appeal. ■ The Registrar is, therefore, required to advise non-represented Appellants to serve the Tribunal <i>a quo</i> with the issued Notice of Appeal to ensure the preparation of the record of proceedings. ■ Certificates of Service must be filed for each Respondent served. ■ For Appellants who are self-actors, an affidavit of service is to be filed as proof of service of the Notice of Appeal to Respondents.
<p>RECORD OF PROCEEDINGS</p>	<ul style="list-style-type: none"> ■ Rule 8 provides for the submission of the record of proceedings by the Tribunal to the Registrar of the Administrative Court within 30 days of receipt of the Notice of Appeal. ■ The Registrar therefore has the following obligations:- <ul style="list-style-type: none"> • Writes a follow-up letter to the Tribunal reminding them to submit the record of proceedings within prescribed timelines. (Refer to Annexure AC1 for letter requesting record of proceedings.); • Ensures that at least three (3) copies of the record of proceedings are lodged with the Registrar’s Office within 30 days of the receipt of the Notice of Appeal from the Tribunal concerned; • If no formal record of proceedings was compiled by the tribunal concerned, the Registrar ensures that they file the papers relating to the matter in issue that led to the decision in dispute; • This is done by writing a letter requesting for such documents (Rule 8(1)(b)).
<p>HEARING OF APPEALS</p>	<ul style="list-style-type: none"> ■ When the Registrar receives records of proceedings from the tribunal <i>a quo</i>, he or she has the following obligations:- <ul style="list-style-type: none"> a. Checks if the record complies with the check list (Refer to Annexure AC2 Appeals Checklist); b. Refers the appeal records to the Judge for consideration and consults the Judge on the suitable set-down date;



- c. Sets down the appeal for hearing on a day, time and place selected by him/her in accordance with any instructions given by the Judge;
- d. Ensures that the Notice of Set-down is dispatched to the Sheriff's office for service to concerned parties;
- e. Ensures that returns of service of the notice of hearing are filed in the record before the hearing day;
- f. Where there are delays in the filing of returns of service by the Sheriff, the Registrar must do a follow up to ascertain whether the Notices of Set-Down were served by the Sheriff;
- g. Where there are challenges in the service of the Notice of Set-Down, the Registrar has to advise the Judge before the court date, and ensure that all Judge's directives are complied with;
- h. The Registrar must advise the appointed Assessors on the date of hearing and ensure that they receive their copies of the record before the hearing date;
- i. If there are queries raised by the Judge, the Registrar shall communicate with the parties concerned so that they can address the queries before the matter is heard. This is done through letters which must have a file copy and a return of service;
- j. The Registrar must ensure that the court is well prepared with all the chairs and other tools of trade for the Judge in place, at least 30 minutes before the hearing commences.

HEADS OF ARGUMENTS

- Rule 10 provides for the filing of Heads of Argument by an Appellant or Respondent who will be legally represented at the hearing of the appeal.
- Therefore, the Registrar has the following duties:
 - a. Requests the Appellant or the Respondent to file their Heads of Argument not later than four (4) days for the Appellant and 24 hours for the Respondent before the hearing date;
 - b. Upon filing of Heads of Argument, the Registrar stamps all copies and retains three (3) copies; one for the Judge and the other two for Assessors;
 - c. The Registrar must ensure that the Heads of Argument are placed before the Judge and Assessors immediately to ensure that they have enough time to prepare for the hearing.

5.2 APPLICATION PROCEDURE

- Every application lodged specifies whether it is a Court Application or a Chamber Application.

ISSUING OF THE APPLICATION

SERVICE OF APPLICATION

NOTICE OF OPPOSITION/

- Before accepting an application, the Registrar must ensure that the application complies with the following requirements:-
 - a. That an application which contains more than five (5) pages is indexed and paginated with all attached annexures clearly labelled;
 - b. That the application and the attached documents are legible;
 - c. That the attached affidavits are dated and signed by the deponent and commissioned;
 - d. That the draft order forms part of the application and is clearly labelled as such.
- After checking the application and the Registrar is satisfied that application complies with all the requirements, the Registrar proceeds to issue the application and ensures the following:-
 - a. Allocates a case number to the application;
 - b. Ensures that the stamp fees and Sheriff's costs are paid before the application is stamped;
 - c. Ensures that all the receipts are stapled inside the application jacket;
 - d. Enters all the details of the application in the application register;
 - e. Clearly labels the jacket cover with all the application details.
- Rule 6(3) is specific that a copy of the application and its accompanying affidavit shall be served on all parties concerned.
- The Registrar must therefore ensure that the following is complied with:-
 - a. That certificate of service of the application to the Respondents is filed as no application can be referred to a Judge without proof that it was served on the Respondents;
 - b. A copy of the application must be served by the Applicants to the Respondents as per the specific addresses provided in the application;
 - c. Upon the filing of a certificate of service, the Registrar stamps and files the certificate of service;
 - d. After the certificate of service is filed, the Registrar files the certificate in the relevant files;
 - e. Where a certificate of service is not filed, the Registrar writes to the Appellant requesting the Appellant to comply with the rules (Refer to Annexure AC3);
 - f. In case of failure to file a certificate of service, the Registrar refers the application to the Judge for directions.
- Upon filing of the Notice of Opposition or Answering Affidavit, the Registrar must ensure that the following



<p>ANSWERING AFFIDAVIT</p>	<p>procedures are complied with:-</p> <ol style="list-style-type: none"> a. That the affidavits are signed by the deponent and commissioned; b. That the pleadings are served on the other party with the certificate of service filed in the record; c. The application be referred to the Judge for directions.
<p>SET-DOWN OF APPLICATIONS</p>	<ul style="list-style-type: none"> ■ When an application is ready for Set-Down, i.e. when certificate of service is filed in Chamber Applications or Notice of Opposition in court application, the Registrar is obliged to follow the following procedures:- <ol style="list-style-type: none"> a. Ensure that the record complies with the checklist of application (Refer to Annexure AC4); b. Refer the application records to the Judge for consideration and consult the Judge on the suitable Set-Down date; c. Sets down the application on a day, time and place in accordance with any instructions given by the Judge; d. Ensure that the notice of Set-Down is dispatched to the Sheriff's office for service to concerned parties; e. Ensure that returns of service of the notice of hearing are filed in the record before the hearing day; f. Where there are delays in filing of returns of service by the Sheriff, the Registrar must do a follow-up to ascertain whether the notices of Set-Down were served by the Sheriff; g. Where there are challenges in the service of the Notice of Set-Down, the Registrar has to advise the Judge before the court date and ensure that all Judge's directives are complied with.
<p>5.3 CASE MANAGEMENT</p> <p>ORDERS AND JUDGMENTS</p>	<ul style="list-style-type: none"> ■ When an order or judgment is released by the Judge, the Registrar must comply with the following procedures:- <ol style="list-style-type: none"> a. Ensure that the record is referred to the Judge's Secretary for typing of the order or judgment and the order or judgment must be ready for collection on the same day it is released by the Judge; b. The order must be signed by the Registrar before is it released to parties; c. The Registrar advises the litigants to come and collect their order or judgment; d. Once a file is completed, it is returned to the Registry and the Registrar updates the Index Book

MATTERS REMOVED FROM THE ROLL OR POSTPONED SINE DIE

by recording the results in the right column;
e. When parties come to collect their judgments and orders, the Registrar ensures that the orders are distributed after stamping them, and some copies are kept in the file.

- In a case where a matter has an order that it has been removed from the roll/postponed *sine die*, the Registrar must ensure that the following guidelines are followed:-
 - a. That the reasons for postponement or removal of the matter from the roll are attended to by the litigant;
 - b. If the matter has been removed or postponed at the instance of the Court or Judge with directives, the Registrar must ensure that the matter is re-Set-Down in line with the directives given by the court;
 - c. Where a matter has been removed from the roll or postponed without directives, the matter must be re-set down within three (3) months in terms of Practice Direction 3/2013;
 - d. In terms of the same practice direction, the matter must be deemed abandoned if the litigants fail to attend to queries raised by the Judge or to re-set the matter within three (3) months (Refer to Annexure 'A' for Practice Direction 3 of 2013);
 - e. When a matter has been deemed abandoned by the Registrar, parties must be notified and the results must be entered in the relevant register.

MATTERS DISMISSED BY REGISTRAR

- When a matter has been dismissed by the Registrar for failure by the parties to comply with the Rules or practice direction, that matter can only be reinstated by way of an application to the Judge.
- The Registrar becomes *functus officio* and cannot revisit his decision (Refer to Annexure AC5);
- Where an application for reinstatement of a matter has been lodged, the Registrar treats that application the same as other applications;
- When reinstatement has been granted by the Judge, the Registrar must ensure that the reinstated matter is referred to a Judge for Set-Down.

5.4 SUPREME COURT APPEALS

- The Supreme Court Rules, 2018 provide guidelines on how appeals move from the Administrative Court to the Supreme Court.
- In terms of the Supreme Court Rules, a party wishing to appeal against the judgment of the Administrative Court must institute the appeal within 21 days of the date of the judgment appealed against.



- When the Registrar has been served with a Notice of Appeal, the process of preparing the record of proceedings which must be submitted to the Supreme Court within 15 days (Rule 62(1) and (2) of the Supreme Court Rules) commences.
- The following procedures must be followed in the preparation of the record of proceedings by the Registrar:-
 - a. The Registrar must stamp the appeal to indicate the date on which the notice has been served on him or her;
 - b. The Registrar checks if there are reasons for judgment or not. Where reasons are not given, the Registrar refers the record to the Judge so that he/she prepares reasons for the judgment;
 - c. If all necessary pleadings are in the record, the Registrar prepares the Record of Appeal. The Record of Appeal must be arranged and indexed in the following manner (Refer to Annexure AC6):-
 - (i) Notice of Appeal;
 - (ii) Administrative Court Pleadings;
 - (iii) Record of Proceedings in the Tribunal *a quo*;
 - (iv) Court Judgment;
 - d. After the record preparation, the Registrar invites parties to inspect the record (Refer to Annexure AC7);
 - e. After a party finishes inspection of the Supreme Court Appeal Record, they sign the certificate of inspection to certify that the record is in order and has all the information/documents required for appeal purposes (Refer to Annexure AC8);
 - f. Once inspection is done, the Registrar directs the Appellant to pay for the costs of preparation of the record (Refer to Annexure AC9);
 - g. Upon payment of the record preparation costs, the Registrar photocopies adequate copies for the Supreme Court and the parties involved;
 - h. The Registrar submits enough copies of the record of proceedings to the Supreme Court for stamping and both the Administrative Court Registrar and the Supreme Court Registrar, sign on the Certificate by Registrars certifying that the record is correct and properly prepared (Refer to Annexure AC10);
 - i. The parties will then collect their own copies at the registry;
 - j. The Registrar must retain a copy of the record in case records submitted to the Supreme Court will get lost or misplaced, the copy can be used for the reconstruction of another record.

DISMISSAL OF APPEALS FOR FAILURE TO COMPLY WITH RULES

REINSTATEMENT OF APPEAL

5.5 MAINTENANCE OF REGISTRY OFFICE

ADMINISTRATIVE COURT FEES

- Where an Appellant has failed to comply with the Supreme Court Rules for the preparation of the record of proceedings, the Registrar has to follow the following procedures:-
 - a. If the Appellant has failed or ignored the call by the Registrar to inspect the record, the Registrar advises the Registrar of the Supreme Court so that the appeal can be dismissed for want of prosecution (Refer to Annexure AC11);
 - b. Where an Appellant has failed to pay costs for the preparation of the record as directed, the Registrar advises the Registrar of the Supreme Court so that the appeal can be deemed abandoned and dismissed.

- When an appeal has been dismissed by the Registrar for failure to comply with Rules or practice directions, that appeal can only be reinstated by way of application to a Judge of the Supreme Court.
- The Registrar becomes *functus officio* and cannot reinstate the appeal that he or she had dismissed. When served with the order of reinstatement of appeal, the Registrar has the following obligations:-
 - a. When an appeal dismissed for failure to inspect has been reinstated, the Registrar invites parties to inspect the record;
 - b. When appeal dismissed for failure to pay costs has been reinstated, the Registrar invites the Appellant to pay costs;
 - c. Where the Appellant has failed to comply with the timelines given in the order of reinstatement, the Registrar advises the Registrar of the Supreme Court so that the appeal can be dismissed.

- Litigants are required to pay court fees for the services rendered.

- It is the duty of every Registrar to ensure that court fees that include stamp fees, Sheriff's costs, photocopying costs, preparation of the record costs and any other fees are paid before the service is offered.
- Therefore, upon presentation of a request or filing of any process, the Registrar is obliged to follow the following procedures to ensure that court fees are paid:-
 - a. The Registrar directs the litigant to pay court fees at the High Court Accounts Office before any process is issued or any request is processed;
 - b. After the payment, the Registrar ensures that a



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- copy of the receipt is attached inside of the file cover of the record;
- c. The Registrar also ensures that the costs of notice of Set-Down are paid at the Sheriff's Office before a file is referred to the Judge;
- d. The Registrar must ensure that court receipts are preserved in the record for audit purposes.

STATISTICS

- Complaints/ must be responded to in writing within three (3) working days.
- Where it is not possible to give a conclusive response within three (3) working days, the Registrar shall acknowledge receipt of the complaint and advise the complainant of the course of action adopted.
- The Registrar should give a response to the complainant within fourteen (14) working days.

- It is a requirement that statistical reports be compiled on a regular basis and submitted to the Secretary.
- The Registrar is therefore obliged to do the following:-
 - a. Compile monthly and quarterly statistics to demonstrate all the activities that have taken place with regard to case management during the period under review;
 - b. The entries of the report must indicate *inter alia* the balance brought forward, matters received, matters completed and matter pending (Refer to Annexure AC12);
 - c. Compiled Judge's statistical report involves the number of cases referred to him, the cases that are finalized and the cases pending at the end of the month and pending reserved judgments;
 - d. Lastly, the Registry report covers all matters filed at the Registry, matters referred to the Judge, finalized matters and the pending matters both before the Judge and in the Registry;
 - e. The Registrar must give a copy of the statistical report to the Judge for confirmation before the report is submitted to the Chief Registrar;
 - f. The Registrar must also retain a copy of statistics which must be properly filed in the relevant file.

TAXATION OF COSTS

- When an order has been given by the Judge or the Court that another party pays costs of suit, a bill of taxation would be submitted to the Registrar for taxation.
- The Registrar has to observe the following procedures:-
 - a. Ensure that the taxing fees are paid before a date of the taxation hearing is given to parties;
 - b. After payment of taxing fees, the Registrar sets



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- down the matter for taxation and advises that all concerned parties be served with the notice;
- c. During taxation, the Registrar must be guided by the order of costs on the tariff to use for taxation.
 - d. If the costs awarded are on an attorney and client scale, the Registrar uses the current Law Society tariff.
 - e. If the costs awarded are on an ordinary scale, the Registrar resorts to party to party tariffs gazetted by Government;
 - f. After taxation, the Registrar signs all the copies of the taxed bill and retains one copy for filing;
 - g. Where one party is aggrieved by the outcome of taxation, he or she is free to make an application to the Judge for review;
 - h. Upon service of the application, the Registrar must compile a report which he must serve on both parties, while filing another one copy in the record for the Judge;
 - i. The Registrar acts as a taxing officer in a taxation matter.
 - j. He makes sure that the taxation is conducted properly according to the instructions of the court as confirmed in the court order;
 - k. The date of the taxation hearing is given by the Registrar and after the taxation is done the bill is signed by the taxing officer and both parties are present for the taxation.

- The Registrar is the face of the court. As such, he has the duty to interact with members of the public or court users on behalf of Judges and the organisation at large. This entails that the Registrar must be presentable all the time and must be sober whenever he is attending to clients.
- The Registrar must also be knowledgeable about his duties to ensure that court users have confidence in the court system.
- In the interaction with court users, the Registrar must observe the following:-
 - a. Always ensures the issues raised by clients are clearly understood before attending to them;
 - b. In any case of misunderstanding between the Registrar and the client, he refers the client to his superiors for assistance;
 - c. Develops a culture of teamwork and professionalism which guides in the interaction between staff and clients;
 - d. Observe good telephone manners on the phone and must always be available to assist clients in a polite manner.



REGISTERS

- Registers are used for purposes of case management.
- They must be maintained as they also assist in the compilation of statistics and tracking of records.
- Registers must give a complete story of the position of each matter before the court.
- Entries must indicate the following columns:-
 - (i) Case number;
 - (ii) Names of parties;
 - (iii) Cause of action;
 - (iv) Date of filing;
 - (v) Legal practitioners for the parties;
 - (vi) Date of hearing;
 - (vii) Outcome;
 - (viii) Name of Judge.
- Columns of each register differ depending on the main purpose of the register;
- Registers must be updated on a daily basis with all the information recorded in the register;
- The following registers are maintained by the Registrar:-
 - (i) Index Book;
 - (ii) File Tracking/Movement Register (for Assistant Registrars/Registry Clerks/Judge's Assistant);
 - (iii) Daily Attendance Register;
 - (iv) Supreme Court Appeals Register;
 - (v) Feedback Register;
 - (vi) Order Book;
 - (vii) Correspondence Register.

SHERIFF'S DEPARTMENT

INTRODUCTION

The office of the Sheriff is created by Section 55 (1) (b) of the **High Court Act** [Chapter 7:06]. The Sheriff is mandated to serve processes and enforce court orders of the Superior Courts, i.e. (Labour Court, Administrative Court, High Court, Supreme Court and Constitutional Court. Execution of court orders encompasses among other things forced sales of movable and immovable properties and civil imprisonment.

6.1 BASIC FUNCTIONS OF THE SHERIFF

COURT PROCESSES

- The Assistant Sheriffs are based in the office of the Sheriff and they perform administrative and clerical duties which include amongst others, receiving processes from litigants, ensuring that process is paid for, allocating such processes to Additional Sheriffs as directed by the Sheriff, attending to queries and correspondences from litigants, and receiving returns of service from the Additional Sheriffs for onward transmission to the litigants and the court.
- They also perform any other functions as directed by the Judicial Service Commission through the Sheriff.
- A process is any document that is required to be served on any person in terms of the High Court Rules.
- Rule 37 provides for process which can only be served by the Sheriff and these are as follows:-
 - Summonses;
 - Writs of Execution;
 - Orders of Court;
 - Notices of Set down (this is in terms of a Practice Direction);
 - Court Applications may be served by parties and not by the Sheriff only;
 - The Sheriff may still serve any other processes like letters and various other court documents but this is not a peremptory requirement as other persons like Legal Practitioners or litigants themselves may also serve such documents;
 - The court may also order that such other documents besides those stated above, be served by the Sheriff.
- Whenever process is brought to the Sheriff with the necessary instructions, the Assistant Sheriff is required to open and make entries in a register called the Incoming Process Register.
- Every process must be entered into this register at the



<p>METHOD AND MANNER OF SERVICE</p>	<p>time of receipt.</p> <ul style="list-style-type: none"> ■ All processes received are allocated Sheriff's internal numbers by the Sheriff. ■ A register called Additional Sheriff Process Received Register must be opened. ■ Process allocated to each Additional Sheriff must be entered and signed for in this register. ■ In terms of Rule 38, process shall not be served between 10 pm and 6 am. ■ Process therefore may only be served after 6 am and before 10 pm. ■ On Saturdays process is served up to 1pm. ■ Process shall not be served on Sundays and during Public Holidays. The exception to this rule is process:- <ul style="list-style-type: none"> • for the arrest of any person; and • Process served by post, telegraph, tele facsimile or courier; these may be served at any time. ■ All summons except those affecting status (divorce) and liberty of an individual (civil imprisonment) can be served on a responsible person or by affixing. ■ In terms of Rule 39, process in relation to a claim for an order affecting the liberty of a person shall be served personally.
<p>SERVICE OF SUMMONS</p>	<ul style="list-style-type: none"> ■ Accordingly, Summons for civil imprisonment are mandated to be served on the individual affected or the defendant in person. ■ Matrimonial Summons affect the status of a person to be served hence should be served personally. ■ Any other summons may be served by:- <ul style="list-style-type: none"> • Serving on the defendant personally or on the person's agent or legal practitioner. • Serving on any responsible person at that person's address, place of business or place of employment. • Serving by affixing on the outer principal door or letterbox after due diligent search.
<p>SERVICE OF NOTICES OF SET DOWN AND ALL OTHER COURT PROCESSES</p>	<ul style="list-style-type: none"> ■ Notices of Set-down for matrimonial matters are to be served personally. ■ All other Notices of set-down may be served in the following manner:- <ul style="list-style-type: none"> - By serving on the defendant personally or on the person's agent or legal practitioner.

	<ul style="list-style-type: none"> - By serving on any responsible person at that person's address, place of business or place of employment. - Serving by affixing on the outer principal door or letter box after due diligent search. <ul style="list-style-type: none"> ■ Any other process besides that stated above shall be served in any of the following ways:- <ul style="list-style-type: none"> • by serving that person or his agent; • by serving the responsible person at that person's residence, place of business or place of employment. ■ Where the process is not summons or order of the court, it can be served on that person's Legal Practitioners. ■ A responsible person for purposes of receiving process is a person who is a major, who is known to the person for whom summons are directed to and who is of sound and sober mind. ■ When serving process to any of the persons stated above, the Sheriff shall not explain the law, comment or explain the merits or demerits of the matter to the person who is receiving the process. ■ Queries regarding anything to do with that process shall be referred to the Registrar of the relevant Court or any person who has initiated the issuance of such process in that Court. ■ Service is effected by handing a copy of the process to the person receiving the process. ■ Return books are kept at the Accounts Office. Each Additional Sheriff is given written authorization by the Sheriff to request for a new Return book upon completion of the one he/she would have been using. ■ An Additional Sheriff may only be issued with a new Return book upon production of the completed one with all the fast copy pages present. ■ Upon completion of service of any process, the Sheriff is required to record on his return of service the following:- <ul style="list-style-type: none"> • The details of the parties to the case; • The case number; • The full names and surname of the person who received the process; • The identification number of the person who received the process (if supplied); • The description, including address, of the place where the process was left; • The description of the manner in which the process was served; • The fees commensurate to such service. ■ It is important for the Sheriff, after effecting service, to provide as much information as possible, regarding
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**WHERE THE
DEFENDANT/
RESPONDENT CANNOT
BE LOCATED**

how service was effected and the manner of service.

- In terms of the Judicial Service Commission Policy, process must be served within 48 hours of receipt.
- Each Additional Sheriff shall complete a Daily Process Reconciliation Form, indicating the number of processes received, number of processes served and the number of those not served.
- For those not served there should be an explanation why they were not served. The explanation is written on the space provided for Remarks on the Daily Reconciliation Form and the forms are checked by the Sheriff daily.

- In terms of Rule 40, where the Sheriff cannot have access to the place of residence or business or employment of the person to be served because it is closed and this prevents process from being served or, the Sheriff after diligent search, is unable to find or locate the person to be served, it shall be sufficient service to leave a copy of the process:-
 - In a letter box; or
 - affixed to the outer principle door; or
 - some other conspicuous position at the residence, place of business or employment of the person to be served.

- The three alternative methods of service stated above can only be resorted to where the Sheriff has not been able to have access to the premises or locate the person at the premises.
- The most ideal and acceptable situation is that the process should be served on a responsible person and the Sheriff should always endeavour to effect service in this way.

- Where a different method of service is effected, it must clearly be stated on the return of service and in addition, a clear explanation must be given as to why the alternative method of service was used.
- The need to provide as much information as possible on the return of service is again emphasized.

- In terms of Rule 42B, proof of service by the Sheriff can be done in two ways:-
 - a. By completing a return of service in Form 5A.
 - b. By endorsement on the process concerned.
- The method stated in (a), that is by completing a return of service, is preferred and must always be relied on.
- The method of endorsement on the process stated in (b) can only be relied on in exceptional situations and where prior authority to rely on it is first sought and

granted by the Sheriff.

- Upon completion of the return of service, the Sheriff is required to immediately transmit the return of service to the instructing attorney or party or to the Registrar.
- A return of service is transmitted by handing it over to the party concerned or in exceptional situations, which can only be relied on after obtaining prior authority, by telegraph or tele facsimile (*See Rule 42 D*).
- A return of service in terms of the law is *prima facie* proof that service was effected by the Sheriff.
- A return of service is not only completed where there was successful service, but even where there was attempted service or where service was not successful.
- The return of service should always be completed and handed over to the person who gave instructions.
- It is not acceptable on the part of the Sheriff to serve process or attempt to serve process but fail or neglect to complete the return of service and transmit such to the relevant persons.
- A return of service is the medium of communication between the Sheriff and the instructing attorneys, explaining the outcome or results of the service requested.
- It serves to inform the parties, especially the instructing party, that service was effected or was not effected, as the case may be.
- If it was effected, how was it effected, if it was not effected, why it was not effected. The feedback must be as informative as possible.
- The return of service is an important document in court process because it is used for various purposes. It can be used as proof to show that a party saw the court process, hence a default judgment must be granted.
- It can also be used the other way round, by a party to show that he or she did not see the court process.
- It is, therefore, important for the Sheriff to be honest and for his conduct to be beyond reproach when completing the return of service.
- The document must leave the court in no doubt at all as to whether or not service was effected and how it was effected.
- After completing the return of service, the Sheriff or Additional Sheriff must hand-over the return of service to the Assistant Sheriff for administrative management.
- It is the responsibility of the Assistant Sheriff to make the necessary entries into the return of service register and further make arrangements for the collection and or transmission of the return of service to the parties, like the instructing attorneys and Registrar.
- All this should be done within the day that the return of service is submitted by the Additional Sheriff.

6.2 EXECUTION (ORDER 40)

COURT ORDER

- Incidences where the Sheriff or the Additional Sheriff does not carry out the task mandated by the instructing attorney or connive with the person to be served and end up giving false information on the return of service, is an act of dishonesty and deceit. This should be avoided and there will be heavy sanction if discovered.
- The most common occurrence of such deceit conduct is when the Sheriff issues a *Nulla Bona* Return of Service. This is when the Sheriff writes that he/she has found no property to seize. The Sheriff would have made diligent search but was unable to find any property of the defendant liable to seizure under the writ.
- The Sheriff or Additional Sheriff is expected to attach and record estimated value on the Notice of Seizure of all goods found at the premises. Where the attached goods are insufficient to cover the debt, same should be indicated on the Return of Service. It is the instructing attorney who should then request for a *Nulla Bona* Return if he/she so wishes.
- To avoid abuse of the *Nulla Bona* Return of Service, before it is issued, it must first be cleared by the Sheriff.

- Execution involves the enforcement of a court order or judgment by the Sheriff.
- The process of execution involves the following factors:-
 - Identification of the place of execution;
 - Issuance of Notice to the judgment debtor on the address identified. For example, it may be a Notice of Seizure or Judicial attachment, Notice of ejectment or registration of a caveat;
 - The actual actioning of the order, for example it may be the removal of the goods attached or the ejectment of the persons, in terms of the court order;
 - The sale of property attached where necessary;
 - The disbursement of sale proceeds to plaintiff or judgment creditor, payment of costs and refunding of any excess funds to judgment debtor after all payments are done.

- For the Sheriff to execute a Court Order the following documents must be availed;
 - A Court Order;
 - A writ;
 - A letter of instruction requesting the Sheriff to execute;
 - Bond of Indemnity;
 - Requisite fees;



WRIT OF EXECUTION

- A court order is issued by a Judge of the High Court. It may, for example, relate to payment of money, for the delivery of goods or premises or ejection.
- A writ is a document that is issued and signed by the Registrar, addressed to the Sheriff and directing the Sheriff to enforce the order of the court (Rule 322).
- It commands and gives authority to the Sheriff to enforce the order issued by the court.
- The writ must at all times be addressed to the Sheriff and must be stamped by the Registrar.
- A writ may be in the form as illustrated in Forms Numbers 34 to 41 of the High Court Rules.
- A writ is issued at the instance of a judgment creditor or plaintiff as per the court order.
- Once a writ of execution is issued, it shall remain in force until such a time as the judgment has been satisfied in full or earlier withdrawn by the court that issued it.
- For example, if property attached and sold fails to raise enough funds to satisfy the full amount awarded in the court order, the same writ is used to attach and sale more property until the judgment is satisfied. It is not necessary to obtain another writ. That writ remains extant for as long as the judgment remains unsatisfied.
- A writ may only be cancelled or withdrawn by the judgment creditor or the court and when that is done, the Sheriff's authorization is withdrawn and the execution stops.
- Where however, there is more than one judgment creditor with writs lodged with the Sheriff in respect of the same judgment debtor or property, the withdrawal or cancellation by one judgment creditor will not stop execution.
- Where property is to be sold in execution, a judgment creditor wishing to participate in the proceeds of the sale shall lodge his writ with the Sheriff.
- When this is done, such judgment creditor shall be entitled to share in or receive part of the proceeds of the sale.
- The writ should be lodged not later than the day immediately preceding the date of sale in execution.
- In terms of Rule 331 (3), the writs lodged shall rank pro-rata in the distribution of the proceeds of the property or goods sold in execution. This however, is subject to any hypothec existing prior to attachment.
- For a writ to be acceptable by the Sheriff for execution,

<p>LETTER OF EXECUTION</p> <p>BOND OF INDEMNITY</p> <p>REQUISITE FEES</p> <p>EXECUTION OF MOVABLE GOODS RULE 334 TO 345</p>	<p>it shall consist of the following features:-</p> <ul style="list-style-type: none"> • Names of parties; • Case number; • Must have been issued by the Registrar and authenticated by the Registrar's signature and stamped by the Registrar; • The information which the Sheriff requires for purposes of execution, for example, the amount of money to be recovered. <ul style="list-style-type: none"> • N.B. Such information must be consistent with the attached court order. Where it is not, seek clarification with the Registrar. ■ The Sheriff shall not accept or execute a writ which does not contain any one of the features stated above. ■ Every writ must be in written form. The Sheriff shall not enforce or carry out execution on the basis of verbal instructions. ■ Where a writ has been issued, its execution may only be stopped or suspended by instructions from the instructing attorneys or court order. ■ While a writ is a good enough instruction for the Sheriff to act, it is important that it be accompanied by instructions or letter from the judgment creditor or his attorneys requesting the Sheriff to proceed and execute. ■ This is necessary as it instructs the Sheriff on what to do and where the execution is supposed to be done. ■ This is necessary to indemnify the office of the Sheriff. ■ The Sheriff must never execute a writ which is not accompanied by a letter of instructions. ■ The writ of execution should always be accompanied by a bond of Indemnity. Such a document is important as it protects the Sheriff against any lawsuits or claims that may arise as a result of the execution. ■ No instruction should be carried out without payment of the requisite fees. ■ In terms of Rule 334, the Sheriff, after receiving the writ and necessary instructions, must seize all kinds of movable property including money and bank notes to satisfy the judgment. ■ The following property, however, shall not be seized as provided for by Section 21 of the High Court Act [Chapter 7:06]:- <ul style="list-style-type: none"> • The judgment debtor's necessary bedding and
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**RANKING OF WRITS
(RULE 331)**

THE INVENTORY FORM

- clothing;
 - The judgment debtor's stock, tools and implements used for his trade or occupation;
 - The judgment debtor's professional books, documents and instruments necessarily used for his profession.
- The three types of property stated above should not exceed in value such an amount of money as may be prescribed in the Rules.
- Upon receiving the writ, court order and instructions, the Sheriff shall proceed to the address stated on the writ and shall do the following:-
- Demand from the judgment debtor satisfaction of the writ or failure of which;
 - Request the judgment debtor to point out to the Sheriff property, the Sheriff may deem sufficient to satisfy the exigency of the writ.
- If that request is complied with, the Sheriff shall make an inventory and valuation of such property. The property so inventoried and valued is consequently placed under judicial attachment.
- Where the debtor does not co-operate with the Sheriff and does not point out any property to the Sheriff, the Sheriff shall immediately make an inventory and valuation of such movable property at the judgment debtor's premises as he may deem sufficient to satisfy the writ.
- Where the judgment debtor hinders the Sheriff from doing his work, the Sheriff may use reasonable force to access the place and property.
- For example, the Sheriff may enlist the services of the police to ensure compliance or a locksmith to open up locked doors.
- Instructions for execution must be acted upon within 48 hours of receipt.
- There should be a Register for Writs of Execution in place.
- All writs of execution received and allocated to Additional Sheriffs should be entered into the register immediately and updated whenever execution has been done.
- On the Inventory Form the Sheriff shall note all the property identified and give sufficient identity and description of such property.
- Each piece of property attached should have estimated value.
- The Sheriff shall also state the date on which such inventory was done and append his signature to

**JUDICIAL ATTACHMENT
AND GIVING NOTICE
(RULE 335)**

authenticate what transpired.

- The Sheriff shall further indicate on the Inventory Form the date on which such property is going to be removed and such shall become a written Notice of Attachment.
- A copy of the inventory made by the Sheriff shall be given to the judgment debtor.
- The period of Notice to remove shall not be less than 48 hours.
- It is not acceptable for the Sheriff or anyone acting for and on behalf of the Sheriff to discuss or attempt to do so with the judgment debtor regarding the contents of the writ, or the nature and type of property to be attached.
- The Sheriff should also be wary of corrupt approaches that may be made to him or her not to attach or remove certain property.
- The Sheriff is warned of such unlawful approaches and is advised not to entertain them.
- There is however, an exception to this general rule in which the Sheriff may proceed without giving Notice.
- The Sheriff may proceed without Notice where he or she has reasonable grounds for believing that the immediate removal of goods is necessary to prevent the judgment debtor from concealing or disposing of any property in order to prevent its removal.
- Legal practitioners have a tendency of issuing a Bond of Indemnity to the Sheriff and instructing removal to be done without Notice. That is not proper and the Sheriff should not accept that.
- A mere tendering of a Bond of Indemnity by a judgment creditor or his legal practitioners is not enough to warrant the Sheriff to proceed without Notice.
- There is need to show that the judgment debtor intends to dispose of or remove the goods and to evade the judicial process and the Sheriff should objectively believe that it constitutes reasonable grounds to proceed without Notice.
 - In terms of Rule 326 A, the Sheriff shall not:-
 - Eject a judgment debtor from any premises; or
 - Remove goods from a judgment debtor's premises unless he has delivered to the debtor a Notice, giving the judgment debtor not less than 48 hours' Notice of the intended ejectment or removal of goods.
- If after the 48-hour notice has lapsed and the defendant has not vacated the premises, and removal fees have been paid, the Sheriff then evicts the defendants and all those claiming occupation through them.



WRIT OF DELIVERY

WRIT OF CIVIL IMPRISONMENT OR PERSONAL ATTACHMENT

- Vacant possession is given to the Applicant.
- When executing a Writ of Delivery, the Sheriff:-
 - Attends at the address for service as stated on the Writ of Delivery or on the Letter of Instruction;
 - Identifies the property stated in the Court Order and Writ of Delivery;
 - Takes away the goods to the address stated on the Writ of Delivery or Letter of Instruction.

- However, in other cases, the Sheriff may just point out to the Plaintiff the goods stated on the Writ of Delivery and the Plaintiff then takes the goods to his intended address for service.
- Please note: No Notice is required to be given to the judgment debtor when executing a Writ of Delivery.

- The writ for personal attachment is executed in terms of Rule 374 of the High Court Rules.
- Whilst other processes must be served or executed at specified times, a warrant for personal attachment is executed at any hour on any day and at any place.
- No Notice is served on the judgment debtor. At the time the judgment debtor is served with the writ, he or she is immediately apprehended and later lodged in prison by the Sheriff.
- The requirements for execution of the warrant are as follows:-
 - There should be a Court Order;
 - There should be a Writ for Personal Attachment issued by the Registrar and addressed to the Sheriff;
 - There should be instructions from the instructing attorney;
 - Sheriff's costs must have been paid and the receipt should be attached;
 - The instructing attorney or the judgment creditor must make available funds to pay for the debtor's upkeep in prison;
 - The lodging fees and the fee for keeping the debtor in prison per day is determined by and paid directly to Prisons.

- As soon as the Sheriff lodges the debtor into prison, the Sheriff prepares a return of service which must be submitted to the instructing attorneys or the judgment creditor.
- Whenever executing a writ for personal attachment, the Sheriff is required, in terms of Rule 374 (2), to hand-over a copy of the writ to the judgment debtor.
- Whenever the Sheriff is going to execute a Writ for Personal Attachment, it is imperative that he be

accompanied by a police officer, who will assist in the execution and apprehension of the judgment debtor.

- The Sheriff should approach the nearest police station to where the writ is to be executed for assistance.
- The Sheriff shall not enter into any form of negotiation and or agreement with the judgment debtor regarding the debt and or the merits or demerits of the debt.
- The Sheriff shall not release, direct or facilitate the release of a person apprehended as a consequence of a Writ for a Personal Attachment.

- Soon after attachment, the Sheriff prepares a return of service, attaches the notice of seizure listing the goods attached and removal costs assessment form to the return of service.
- These documents are then collected by the instructing attorneys from the Sheriff's offices.
- Upon payment of the costs, the attached property will be removed by the auctioneer in the presence of the Sheriff. The Sheriff therefore proceeds to the judgment debtor's address in the company of the auctioneer.
- The Sheriff is required to check if the goods to be removed tally with the goods on the notice of seizure whilst at the debtor's premises.
- Where it is not convenient to remove the property (for example cattle) or difficult to remove the property, the Sheriff shall leave the same property upon the premises in the custody of some identifiable person awaiting the day of sale.
- On the day of sale, the Sheriff or his agent or auctioneer shall conduct what is termed as "*sale in situ*", that is, the sale is conducted at the place where the property is situated.
- Where the judgment debtor disposes of or removes the property that is subject to judicial attachment, this constitutes an offence.
- The Sheriff shall report the offence to the police and shall also prepare a return of service stating what transpired and hand it over to the judgment creditor or his legal practitioners who may take action as provided by the law.
- Should the Sheriff find other property not stated in the notice of seizure, but sufficient to satisfy the Judgment Debt, the Sheriff can proceed to attach and remove that property without notice.
- This is however in consultation with the Head of Sheriff Services.

- The responsibility of the Sheriff is to execute the writ to the letter.

6.3 ENGAGEMENT OF AUCTIONEERS

- From time to time, the Judicial Service Commission, through the office of the Sheriff shall appoint auctioneers for certain areas, who will be sub-contracted by the Sheriff to provide logistical support in the enforcement of court orders.
- The auctioneer is, therefore, an agent of the Sheriff who will only act on the instructions of the Sheriff.
- The services of the auctioneer are required from the stage of ejection proper or removal of goods after the Notice period has lapsed.
- The auctioneer provides to the Sheriff the following services:-
 - Manpower to assist the Sheriff in enforcing the court order;
 - Transportation of goods to the place of storage;
 - Premises for the storage of goods removed. The premises must have been inspected by the Sheriff and certified suitable to keep the kind of goods that are brought and such goods must not be exposed to damage.
- Auctioneers are required to sell goods by public auction on instructions of the Sheriff.
- The removed goods must be kept at the premises until the day of sale.
- The premises must be adequately secured and the auctioneer must have obtained insurance for the goods in transit and its custody awaiting sale.
- All costs for services provided by the auctioneer shall be paid by the Sheriff, who in turn recovers them from the sale of goods.
- The costs levied by the auctioneer must be approved by the Sheriff and must be in terms of the High Court Rules.
- The auctioneer shall not use or lend the attached goods or permit them to be used in any other way that will decrease the value of the goods.

- After the period of notice has elapsed, the Sheriff removes the property from the judgment debtor's place to a place of convenience and security where it will be kept. This is usually to the premises provided by the auctioneer.
- Removal however only proceeds after the instructing attorney has paid the removal fees. Such costs will be stated in an assessment form which is completed during attachment stating the equipment and actual funds required for the removal.
- A Judgment debtor whose movable property has been attached and does not wish to have the property removed, may produce to the Sheriff a bond

REMOVALS (RULE 337)

BOND OF SECURITY



SALE (RULE 339)

REMOVAL FOR SHERIFF COSTS AND COMMISSION

of security, accompanied by sufficient security that such property will be produced on the day of sale.

- If the Sheriff is satisfied, removal will be stayed until the day of sale.
- A notice of the intended sale should be published first in a widely circulated/ read newspaper of the area or the Government Gazette.
- The day appointed for the sale shall not be less than 12 days after the time of removal or attachment.
- Where there are perishable goods, these may be sold immediately without regard to the 12-day Notice period but on condition the judgment creditor has indemnified the Sheriff against any claim for damages which may arise from such sale.
- The property shall be sold by public auction for ready money and to the highest bidder.
- The sale proceeds shall be disbursed as follows:-
 - The Sheriff should first recover his costs of execution and this includes the auctioneer's fees;
 - Payments to the judgment creditor to satisfy the judgment;
 - If there is a balance in hand after payment of the judgment creditor's claim and costs, it shall be paid to the judgment debtor.
- A sale may be stopped by the judgment creditor or his legal representative for whatever reason which will be of no interest to the Sheriff but in terms of Rule 340, the Sheriff will only stop upon payment of its costs including the costs of the auctioneer.
- In terms of S.I. 226 of 2020, the Sheriff's costs are due upon attachment.
- However, the Sheriff normally recovers his commission after sale of the attached property.
- In instances where removal costs are not paid, the Sheriff may proceed with the removal and sale of attached goods to recover his costs.
- Any auctioneer who is desirous of being appointed as auctioneer to conduct Sheriff Sales shall apply to the Head of Sheriff Services.
- The Head of Sheriff Services should then place the Applicants on a waiting list.
- The Head of Sheriff Services shall make the appointments.
- The appointments shall be made from the Applicants on the waiting list on the basis of "*first come, first appointed*".

6.4 APPOINTMENT OF AUCTIONEERS FOR IMMOVABLE PROPERTY (RULE 350A)

EXECUTION OF IMMOVABLE PROPERTY OR MINING CLAIMS

6.5 SALE INSTRUCTIONS BY SHERIFF

- The Head of Sheriff Services shall not appoint an auctioneer who is not a member of Council for Estate Agents and who is not on the register of the Council.
- After the appointment of the auctioneer, the Sheriff shall issue instructions for the sale of the immovable property to the auctioneer.
- The instructions shall be copied to the judgment debtor and instructing attorney or judgment creditor.
- In terms of Rule 351, the Sheriff is required to appoint a neutral person to be the valuator of the property to provide an independent valuation of the property by giving an estimated value of the property.
 - Alternatively, the Sheriff may require the appointed auctioneer to provide a pre-valuation report of each immovable property to be sold, in which he states the estimated value of each property.
- The Auctioneer, in consultation with and on approval of the Sheriff, shall appoint a day and place of the sale of the property.
- The day of sale of the property shall not be less than one month after the service of the Notice of Attachment upon judgment debtor by the Sheriff (Rule 352).
- The impending sale of the property shall be advertised at least once in the Government Gazette and in a newspaper circulating in the area where the property is situated and the sale is to be conducted.
- The Sheriff is required to prepare conditions of sale that must be availed to the auctioneer and all persons having an interest in the sale.
- An addendum of the current conditions of sale is attached to these standard operating procedures.
- These conditions of sale may be changed from time to time.
- The sale shall be conducted in terms of the conditions of sale supplied by the Sheriff.
- In terms of Rule 354, the sale shall be by public auction and the highest bidder shall have his or her bid accepted by the Sheriff.
- After the sale, the auctioneer is required to prepare and submit the “post auction report”, to the Sheriff within three (3) days of the sale being done.
- Upon receipt of the auctioneer’s report, the Sheriff shall analyse the sale of each property and satisfy himself that the highest price offered is reasonable in the circumstances, considering the state of the property, the estimated value of the property, what is

ACCEPTANCE LETTER

prevailing in the market at the time and the amount that is owed.

- If satisfied that the sale was properly conducted, the Sheriff shall declare the highest bidder to be the purchaser by issuing an Acceptance Letter.
- An Acceptance Letter is a letter written to the purchaser by the Sheriff accepting the bid made by the purchaser. The letter must be copied to the judgment debtor and all interested parties.
- The consideration of the auctioneer's report and issuance of the Acceptance Letter must be done within two (2) days of receipt of the report.
- Soon after issuance of the Acceptance Letter and within a period of 15 days, the judgment debtor or any other interested person may formally file an objection to the sale with the Sheriff.

CONFIRMATION OF SALE (RULE 359)

- Where no such objection has been filed and the 15-day period has elapsed, the Sheriff shall proceed and confirm the sale.
- The Confirmation Letter must be written within a day after the elapse of the 15-day period.

OBJECTION OF SALE

- In terms of Rule 359, any person who has interest in the sale may request the Sheriff to set aside the sale on the following grounds:-
 - The property was sold for an unreasonably low price; or
 - Any other good ground.
- This request or objection must be made within 15 days from the day the Sheriff issued the Letter of Acceptance.
- The objection shall be supported by one or more affidavits stating the grounds on which the sale should be set aside.
- The objection must be served on all interested persons.
- Any interested person or anyone served with the objection, may, if he so wishes but within a period of 10 days, oppose the setting aside of the sale.
- Such opposition shall be supported by one or more affidavits stating the grounds upon which the opposition is made and it shall be served on the objector.
- The objector may within 10 days after receiving papers in opposition, file a written reply which he shall, without delay, serve on the person opposing the objection.
- Upon receipt and filing of all the documents stated above, the Sheriff shall set a date for the hearing of the objection and advise the parties.

SALE BY PRIVATE TREATY

TRANSFER OF PROPERTY SOLD (RULE 361)

- At the hearing, the Sheriff shall give the parties or their legal representatives an opportunity to address him before he makes his decision.
- In his decision, the Sheriff shall either
 - Confirm the sale; or
 - Cancel the sale and make such order as he considers appropriate in the circumstances.
- In his decision, the Sheriff shall give written reasons for arriving at that decision and these shall be made available to the parties.
- The reasons shall be provided within a period of five (5) days from hearing the matter.
- Any person who is aggrieved with the decision of the Sheriff may approach the High Court by way of application, to have the Sheriff's decision set aside.
- Such application must be made within 30 days of the Sheriff's decision.
- The period taken from the sale of the property to the issuance of letter of confirmation where there was an objection should be not more than three (3) months.

- In terms of Rule 358, where all persons with interest to the matter, including the judgment debtor, agree or consent thereto, or with the consent of the Judge, the Sheriff may sell immovable property by private treaty, if he is satisfied that:-
 - The price offered is fair and reasonable and;
 - That the property is unlikely to realise a larger sum by a sale at public auction.
- Where the Sheriff after receiving the auctioneer's report, is of the view that the price offered by the highest bidder is unreasonably low, having regard to all the circumstances, he may order that the auctioneer sale the property by private treaty.
- Where the Sheriff after considering documents filed and hearing all parties in an objection hearing, comes to the conclusion that the price offered by the highest bidder is unreasonably low, he may give an order that the auctioneer sales the property by private treaty.

- Immediately after the sale is confirmed and the conditions of sale are met, including the payment of the full purchase price, the Sheriff shall proceed to **give transfer** of the property to the purchaser.
- The process of giving transfer shall involve the appointment of conveyancers and the signing of all transfer documents by the Sheriff.
- The process of transferring the property is done by the Sheriff, i.e. he signs the transfer documents. The Sheriff is therefore the person who appoints the conveyancers.

PLAN OF DISTRIBUTION (RULE 365)

6.6 RECORDS AND INFORMATION FILING

6.7 OFFENCES AGAINST SHERIFF SECTION 22 OF THE HIGH COURT ACT (CHAPTER 7:06)

- Upon the payment of the full purchase price by the purchaser, the Sheriff shall prepare a plan of how he proposes to distribute the purchase money.
- The plan of distribution shall lie in the office of the Sheriff for inspection for a period of 14 days from the date notified by the Sheriff as published in the Government Gazette.
- Where any interested person objects to the plan of distribution, he may have it set aside by way of court application in the High Court.
- In terms of Rule 365, where there is no objection to the plan of distribution, the Sheriff shall confirm the plan and in terms of Rule 366, he will then proceed to distribute the proceeds of the sale in terms of the confirmed plan.

- This refers to the process of opening and indexing files using internal numbering to ensure all processes received have a reference number which can be used when making follow-ups to the matter.

- This is a very important section of the Sheriff department as files are stored/kept for references purposes. The process is as follows:-
 - The Records and Information assistant receives process;
 - Opens a file for it;
 - Books it in the index book;
 - References the process using our internal numbering;
 - Files them in their respective sections;
 - Updates files as and when necessary;
 - Updates the index books as and when necessary;
 - Retrieves files when need arises.

- **Section 22 of the High Court Act** provides for criminal offences that may be committed against the Sheriff.
- These are as follows:-
 - Any persons who obstruct the Sheriff or Sheriff's agent(s) in the execution of his duty or duties;
 - Concealing or disposing of goods when one is aware that such goods are under judicial attachment;
 - Failure or refusal to co-operate by a judgment debtor when he is required by the Sheriff to point out property to satisfy a warrant issued;
 - False declaration by any person to the Sheriff that he possesses no property or insufficient property to satisfy the warrant;

6.8 CIRCULARS

- Refusal to comply with any requirements by the Sheriff regarding delivery of documents relating to the title of immovable property under execution.

GENERAL CIRCULAR NO.1 OF 2013

- This circular gives general guidelines on how officers of the Judicial Service Commission should conduct themselves regarding the services offered to the public.
- Every officer in the Sheriff's office should acquaint himself or herself with the contents of the circular.
- The Judicial Service Commission abhors corruption and anyone caught on the wrong side will be dealt with.
- The use of registers in the Sheriff's office is important as it enables accountability of all processes received and subsequent movement of the processes until the task is carried out.
- The circular is attached as part of the Standard Operating Procedures. (*See Annexure "A")
- Other circulars have been issued that also give guidance to officers in the Sheriff's office on how to effectively manage the office.
- These are also attached as part of Standard Operating Procedures.

ANNEXURES

PRACTICE DIRECTIONS APPLICABLE TO ALL SUPERIOR COURTS

ANNEXURE 'A'

PRACTICE DIRECTION 3/ 2013

PROPER USE AND APPLICATION OF THE TERMS 'STRUCK OFF THE ROLL'; 'POSTPONED *SINE DIE*' AND 'REMOVED FROM THE ROLL'

Application

1. This practice direction applies to all the Superior Courts of Zimbabwe.

General Note

2. With a view to ensuring the uniform use and application of the terms 'struck off the roll'; 'postponed *sine die*' and 'removed from the roll', the following changes to the current practice take effect from 1 January, 2014.

Struck off the roll

3. The term shall be used to effectively dispose of matters which are fatally defective and should not have been enrolled in that form in the first place.
4. In accordance with the decision in *Matanhire vs. BP & Shell Marketing Services (Pvt) Ltd* 2004 (2) ZLR 147 (S) and *S vs. Ncube* 1990 (2) ZLR 303 (SC), if a Court issues an order that a matter is struck off the roll, the effect is that such a matter is no longer before the Court.
5. Where a matter has been struck off the roll for failure by a party to abide by the Rules of the Court, the party will have thirty (30) days within which to rectify the defect, failing which the matter will be deemed to have been abandoned¹.

Provided that a Judge may on application and for good cause shown, reinstate the matter, on such terms as he deems fit.

Postponed *sine die* / Removed from the roll

6. The term 'postponed *sine die*' shall be used where a matter is adjourned indefinitely without the Court specifying the date when the matter shall be heard again.
7. The term 'removed from the roll' shall have the same meaning as 'postponed *sine die*'.
8. Where a Court either postpones a matter *sine die* or removes it from the roll, the Court shall direct what a party must do and the time frames by which the directive must be complied with.
9. On the expiry of the time frame set, the Registrar shall advise a party of the non-compliance and call upon the party to rectify the defect within thirty (30) days, failing which the matter shall be deemed to have been abandoned.
10. Where directives have not been given in terms of paragraph 8 above, and a matter postponed *sine die* or removed from the roll is not set down within three (3) months from the date on which it was postponed *sine die* or removed from the roll, such matter shall be regarded as abandoned and shall be deemed to have lapsed.

Inactive matters

11. Currently, there are matters that were either "*postponed sine die*" or "*struck off the roll*" in all the Courts and which have been in that state for long periods of time. Heads of Courts are requested to direct Registrars to set those matters down and have them finalised.

Hon. Mr. Justice G.G. Chidyausiku

Chief Justice of Zimbabwe

HARARE

29 November 2013





Your Ref:
Our Ref:

Date

To.....
Applicant's Legal Practitioners

RE: A vs B

We refer to the above matter wherein directives were given by the Honourable Judge on 20.....

We note that the directives have not been complied with.

Please be advised that in terms of paragraph 9 of Practice Direction 3/13, you are called upon to rectify the defect within thirty (30) days of this letter.

Failure to rectify the defect within the stipulated time will result in the Registrar regarding the matter as abandoned and deeming it to have lapsed in terms of paragraph 10 of Practice Direction 3/13.

.....
for: REGISTRAR

CC
.....





Your Ref:
Our Ref:

Date

To.....
Applicant's Legal Practitioners

RE: A vs B

Reference is made to your appeal/ application filed on.....
It is noted that your matter was postponed *sine die*/ removed from the roll/ struck off the roll on.....

In terms of paragraph 8 of Practice Direction 3/13, the Hon. Judge directed that rectify the defect(s) on or before.....

We note that you have not rectified the defect(s) within the time directed by the Hon. Judge in terms of paragraph 8 of Practice Direction 3/13.

In terms of paragraph 9 of Practice Direction 3/13, the matter is hereby regarded as abandoned and therefore deemed to have lapsed.

Should you be aggrieved by this decision you will find recourse in the Rules of the court.

.....
for: REGISTRAR

CC

.....





Your Ref:
Our Ref:

Date

To.....
Applicant's Legal Practitioners

RE: A vs B

Reference is made to your appeal/ application filed on.....
It is noted that your matter was postponed sine die/ removed from the roll/ struck off the roll on.....

We note that a period of three (3) months, calculated from the time the Hon. Judge postponed *sine die*/ removed/ struck off the matter from the roll, has expired.

In terms of paragraph 10 of Practice Direction 3/13, the matter is hereby regarded as abandoned and therefore deemed to have lapsed.

Should you be aggrieved by this decision you will find recourse in the Rules of the court.

.....
for: REGISTRAR

CC

.....



PRACTICE DIRECTION 02/2016
DEALING WITH QUERIES IN CHAMBER MATTERS

1. Application

This Practice Direction applies to the Supreme Court and High Court of Zimbabwe.

2. General Note

In order to ensure that litigants prosecute their matters to finality the following changes to the current practice take effect from the 1st of September 2016.

3. Queries in chamber matters

- 3.1 In determining the fate of a chamber application a judge may raise such queries as he or she may consider pertinent to the disposal of the application.
- 3.2 Any query raised in terms of subparagraph (3.1) shall be attended to promptly and, in any event, not later than 30 days from the date on which the query was raised.
- 3.3 Where a query so raised by a Judge has not been attended to within the period stipulated in subparagraph (3.2), the chamber application shall be dismissed by the Registrar.

Hon. Mr Justice G. G Chidyausiku
Chief Justice

HARARE
.....2016

**TEMPLATES FOR DEALING WITH CHAMBER MATTERS IN TERMS OF PRACTICE
DIRECTION 2 OF 2016**

TEMPLATE 'B (1)'



Your Ref:
Our Ref:

Date

To.....
Applicant's Legal Practitioners

RE: A vs B

We refer to the above matter wherein a query was raised by the Honourable Judge on 20.....

Please be advised that in terms of paragraph 3:2 of Practice Direction 2/16, the query has to be attended to not later than 30 days from the date on which it was raised.

We hereby notify you to rectify the query raised in this letter within 30 days of this letter.

Failure to attend to the query within the stipulated time will result in the Registrar dismissing the application in terms of paragraph 3:3 of Practice Direction 2/16.

.....
for: REGISTRAR

CC

.....





Your Ref:
Our Ref:

Date

To.....
Applicant's Legal Practitioners

RE: A vs B

Reference is made to your Chamber Application filed on.....
In terms of paragraph 3.2 of Practice Directive 2/16, you were supposed to rectify the query on or before..... . We note that the query was not rectified.

In terms of paragraph 3.3 of Practice Direction 2/16, the matter is hereby dismissed. Should you be aggrieved by this decision you will find recourse in the Rules of the court.

.....
for: REGISTRAR

CC
.....





Your Ref:
Our Ref:

Date

To.....
Applicant's Legal Practitioners

RE: A vs B

We refer to the above matter wherein a query was raised by the Honourable Judge on 20.....

Please be advised that in terms of paragraph 3:2 of Practice Direction 2/16, the query has to be attended to not later than 30 days from the date on which it was raised.

Failure to attend to the query within the stipulated time will result in the Registrar dismissing the application in terms of paragraph 3:3 of Practice Direction 2/16.

for: REGISTRAR

CC

.....



Form No. CCZ 4
Referral of constitutional matter
Rule 24

CASE NO.....
IN THE CONSTITUTIONAL COURT OF ZIMBABWE
HELD AT
A REFERRAL FROM

..... in terms of Section 175 (4) of the Constitution
In the matter between

.....
Applicant
and

.....
Respondent

Date of referral.....

Constitutional question referred
.....
.....

I do hereby certify that the record
attached hereto is correct and accurate.

This record contains pages and the following items:
.....
.....

Signed.....

Presiding Judicial Officer/ Registrar Clerk of Court

COURT STAMP





(Letter calling for the filing of Heads of Argument)

Your Ref:

Our Ref: CCZ...../.....

Date.....

To.....

Applicant's Legal Practitioners

RE:

I have to inform you that the records in the above Application were received by this court on the.....20.....

The Applicant is required to file Heads of Argument within 15 business days from the date of service of this letter in terms of Rule 39(3) of the Constitutional Court Rules, 2016.

Please note that if you fail to comply with the above, the application shall be regarded as abandoned and shall be deemed dismissed in terms of Rule 39(5) of the same rules.

.....
For: Registrar

cc

Respondent's Legal Practitioners

.....

.....

.....





(Letter dismissing application for failure to file Heads of Argument

Your Ref:

Our Ref: CCZ...../.....

Date.....

To.....

Applicant's Legal Practitioners

RE:

I refer to my letter datedin which you were called upon to file Heads of Argument.

To date, no Heads of Argument have been received. The application is therefore deemed to have been abandoned and is accordingly dismissed in terms of Rule 39(5) of the Constitutional Court Rules, 2016.

.....
For: Registrar

cc

Respondent's Legal Practitioners

.....

.....

.....

(Monthly statistical report template)
CONSTITUTIONAL COURT OF ZIMBABWE
MONTHLY STATISTICS REPORT TEMPLATE

NATURE	OPENING BALANCE AS AT -----	CASES RECEIVED AS AT -----	TOTAL	COMPLET- ED CASES	CLOSING BALANCE AS AT -----	BACKLOG STATUS
APPEALS						
APPLICATIONS						
GRAND TOTAL						

APPEALS COMPLETED

DISMISSED BY REGISTRAR:

STRUCK OFF:

ORDERS:

JUDGMENTS:

WITHDRAWN BY PARTIES:

CHAMBER APPLICATIONS

DISMISSED BY REGISTRAR:

STRUCK OFF:

ORDERS:

JUDGMENTS:

WITHDRAWN BY PARTIES:

(Daily Court Outcome report template)
IN THE CONSTITUTIONAL COURT OF ZIMBABWE
DAILY COURT OUTCOME REPORT

CASE NUMBER	PARTIES	JUDGES	RULING/ORDER/ REASON	STATUS
CCZ	Appellant/Applicant v Respondent	1. ----- JCC 2. -----JCC 3. -----JCC 4. -----JCC 5. -----JCC 6. -----JCC 7. -----JCC		Completed or pending
		OR		
CC		1.----- JCC 2. -----JCC 3. -----JCC		Completed or pending

DATE:

APPEALS**CONSTITUTIONAL COURT CHECK LIST****APPEALS FROM LOWER COURTS****APPELLANT**.....**RESPONDENT**.....

ITEM	REQUIREMENT	YES	NO
	Is the notice of appeal signed by the Appellant? Or Legal Representative?		
	Are all the documents clear and legible		
	Is the name of the court <i>a quo</i> stated?		
	Is the date of the judgement appealed against stated? Is the judgment appealed against attached?		
	Has leave to appeal been obtained? Is the order for such leave attached?		
	Has the appeal been noted within the time limits?		
	Are the grounds of appeal stated?		
	Is the relief sought on appeal stated?		
	Is the address for service for the Appellant given?		
	Is the appeal addressed to the Registrar of the lower court? And to all Respondents?		

Issuing Officer:

SIGNED.....

NAME.....

DATE:.....

APPLICATIONS**APPLICANT (S)**.....**RESPONDENT (S)**.....

ITEM	REQUIREMENT	YES	NO
	Is there an application signed by the Applicant? Or Legal Representative?		
	Are all the documents clear and legible including annexures		
	Are the affidavits to support the application commissioned?		
	If application is an urgent one, is it supported by a certificate of urgency?		
	Is there a draft order attached to the application?		
	Is the address for service for the Applicant given?		
	Is the appeal addressed to the Registrar of the Constitutional Court?		
	And to all Respondents?		

Issuing Officer:

SIGNED.....

NAME.....

DATE:.....



SUPREME COURT ANNEXURES

ANNEXURE 'SC1'

SUPREME COURT CHECKLIST APPEALS FROM THE HIGH COURT CIVIL DIVISION

APPELLANT.....

RESPONDENT.....

ITEM	LEGAL REQUIREMENT	YES	NO
	6 COPIES SUBMITTED?		
	IS THE NOTICE SIGNED BY THE APPELLANT?		
	HIS LEGAL REPRESENTATIVE?		
	IS THE NAME OF THE COURT A QUO STATED?		
	IS THE DATE OF THE JUDGMENT APPEALED AGAINST STATED?		
	1. IS LEAVE TO APPEAL NOT REQUIRED		
	2. IS THE ORDER GRANTING LEAVE TO APPEAL ATTACHED?		
	HAS THE APPEAL BEEN NOTED WITHIN THE TIME LIMITS?		
	IS THE APPEAL AGAINST THE WHOLE JUDGMENT?		
	IS THE APPEAL AGAINST PART OF THE JUDGMENT?		
	ARE THE GROUNDS OF APPEAL STATED? (RULE 32)		
	IS THE RELIEF SOUGHT ON APPEAL STATED? (RULE 29)		
	IS THE ADDRESS FOR SERVICE FOR THE APPELLANT GIVEN?		
	DOES THE NOTICE OF APPEAL CONTAIN AN UNDERTAKING TO PAY THE COSTS OF THE RECORD?		
	DOES THE NOTICE OF APPEAL OFFER SECURITY OF THE RESPONDENT'S COSTS OF APPEAL? (RULE 46)		
	IS THE APPEAL ADDRESSED TO THE REGISTRAR OF THE HIGH COURT?		
	AND TO ALL RESPONDENTS?		

ISSUING OFFICER:

SIGNED.....

NAME.....

DATE.....



**SUPREME COURT CHECKLIST
APPEALS FROM THE LABOUR COURT**

APPELLANT.....

RESPONDENT.....

ITEM	LEGAL REQUIREMENT	YES	NO
	6 COPIES SUBMITTED?		
	IS THE NOTICE SIGNED BY THE APPELLANT?		
	HIS LEGAL REPRESENTATIVE?		
	IS THE NAME OF THE COURT A QUO OR THE JUDGE STATED?		
	IS THE DATE OF THE JUDGMENT APPEALED AGAINST STATED?		
	HAS THE APPEAL BEEN NOTED WITHIN TIME LIMITS?		
	IF THE APPEAL IS NOTED OUT OF TIME, IS THE ORDER CONDONING THE LATE NOTING OF APPEAL ATTACHED?		
	IS THE ORDER GRANTING LEAVE TO APPEAL ATTACHED?		
	IS THE APPEAL AGAINST THE WHOLE JUDGMENT?		
	IS THE APPEAL AGAINST PART OF THE JUDGMENT?		
	ARE THE GROUNDS OF APPEAL STATED?		
	IS THE RELIEF SOUGHT ON APPEAL STATED?		
	IS THE ADDRESS FOR SERVICE FOR THE APPELLANT GIVEN?		
	IS THE APPEAL ADDRESSED TO THE REGISTRAR OF THE LABOUR COURT?		
	AND TO ALL RESPONDENTS?		

ISSUING OFFICER:

SIGNED.....

NAME.....

DATE.....





(Letter calling for Heads of Argument)

Your Ref:

Our Ref: SC.....

Date

To.....

Appellant's Legal Practitioners

RE: A vs B

I have to inform you that the records in the above matter were received by this court on the.....20.....

I now call upon you to file Heads of Argument within fifteen days (15) business days from the date of service of this letter. Please note that if you fail to comply with the above, the appeal shall be regarded as abandoned and shall be deemed dismissed.

.....
For: Registrar

cc

Respondent's Legal Practitioners

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





(Letter dismissing appeal for failure to file Heads of Argument)

Your Ref:
Our Ref: SC.....

Date

To.....
Appellant's Legal Practitioners

RE: A vs B

I refer to my letter dated.....20.....in which you were called upon to file Heads of Argument. To date, no Heads of Arguments have been received. The appeal is therefore deemed to have been abandoned and is accordingly dismissed.

By copy of this letter, the records of appeal are being returned to court of origin to enable the Respondent to execute judgment appealed against.

.....
For: Registrar

cc

Respondent's Legal Practitioners

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

MONTHLY STATISTICAL REPORT TEMPLATE

NATURE	OPENING BALANCE AS AT	CASES RECEIVED AS AT	TOTAL	COMPLETED CASES	CLOSING BALANCE AS AT	BACKLOG STATUS
SUPREME COURT APPEALS						
CHAMBER APPLICATIONS						
TOTAL						

NOTES:**APPEALS COMPLETED BREAKDOWN**

- Dismissed by Registrar:
- Struck off:
- Orders:
- Judgments:
- Withdrawn by parties:

CHAMBER APPLICATIONS COMPLETED BREAKDOWN

- Dismissed by Registrar:
- Struck off:
- Orders:
- Judgments:
- Withdrawn by parties:

HIGH COURT ANNEXURES

**ANNEXURE "HC1"
Form No. 5A**

**Return of Service
Rule 42B
Deputy Sheriff**

		Book number	Advice No
	Issuing Court	Case Number	
Plaintiff/ Applicant			Defendant/Respondent
Summons	Summons C.I.	Warrant of execution	Warrant of arrest other Charges \$ C
Address for service of execution or attempt		km at	
		km at	
Served personally on -principal		A. the person to be served B. authorised agent(named and described below)	
Served by affixing to outer door after unsuccessful diligent search		A. Place of residence/ business B. <i>Domicilium citandi</i>	
Served on responsible person who gave his name as:..... and his position as:		A. at defendant's residence B. at defendant's place of business/ employment C. defendant 's <i>domicilium citandi</i>	
Served at local registered office corporation/company			
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	Charges	C
	B. debtor lodged in prison		
Warrant of attachment enforced. Debtor present/ absent. Goods attached/ inventories			
Not removed /removed for sale			
Warrant of attachment executed – paid in full			
Warrant of attachment – debtor seen; no property pointed out or seen; <i>nulla bona</i>			
Remarks:	Cartage		
	Advertising		
	Locksmith		
	Notice		
	inventories		
	Commission		
PLAINTIFF/ LEGAL PRACTITIONER	ASSISTANT /DEPUTY SHERIFF	Escort	
		Postage	
		Other (specify)	
You may require these charges to be taxed before payment	Certified a true and correct return	\$	
	Total		



Notice of Intention to Bar
Rule 80

Case No.....

IN THE HIGH COURT OF ZIMBABWE

In the matter between:

Plaintiff
and
Defendant

TAKE notice that the plaintiff/defendant is hereby required to file his declaration/plea/request for further particulars within five (5) days excluding Saturdays, Sundays and public holidays, and in default it is the defendant's/plaintiff's intention to file a copy of this notice with Registrar as a bar.

Defendant's/Plaintiff's legal practitioner

(Endorsement:)

To: the Registrar of the High Court

at.....

The time limited by this notice having expired, we hereby bar the plaintiff/defendant in terms thereof.

DATED at.....thisday of20.....

(Note: When a copy of this form is filed with the Registrar in terms of Rule 81, it should be accompanied by proof of service in the form of an endorsement or return of service (if it was served by the Sheriff or his deputy) or a Certificate of Service in Form No. 6 or 7, as the case may be.)

(Form substituted by SI 33 of 1996 and amended by SI 80 of 2000)



PRACTICE DIRECTION 1/2003
URGENT CHAMBER APPLICATION BROUGHT OUTSIDE NORMAL WORKING HOURS
Application

1. This practice direction applies to urgent chamber applications that are brought outside the court's normal working hours on court days, or on Saturday, Sunday or public holidays.

Form of application brought outside normal working hours

2. An application to which this direction applies must be in the same form as an ordinary urgent chamber application, but it must be accompanied by a certificate of urgency signed by the Applicant's legal practitioner (or, if the Applicant is not legally represented, by the Applicant) citing out cogent and sufficient reasons for bringing the matter urgently outside the court' normal working hours.

Duty Rosters

3. (1) For the purposes of this section, a person's contact details are
 - a) A physical address; and
 - b) where possible, telephone number;
 where the person can be contacted outside normal working hours.
 - (2) The Registrar must compile a monthly duty roster setting out
 - a) his contact details; and
 - b) the names and contact details of every Assistant Registrar and clerk who is on duty outside normal working hours during the month in question.
 - (3) The Attorney-General must provide the Registrar with a monthly roster setting out the names and contact details of:-
 - a) the Director of the Civil Division of the Attorney-General's Office; and
 - b) the Director of Public Prosecutions in the Attorney-General's Office; and
 - c) the officers who, during the month in question, will be able to attend to any applications to which this practice applies.
4. The Registrar must provide the commissionaire at the High Court building with copies of the duty rosters referred to in subsections (2) and (3) and the commissionaire must show the roasters to any legal practitioner or Applicant who requests sight of them.
 - (1) Officers whose names appear on a duty roster referred to in Section 3 must take all reasonable steps
 - a) To ensure that they can be contacted outside normal working hours at the address or through the telephone number that appears against their names on the roster;
 - b) To attend to any application to which this practice direction applies when called upon to do so by an Applicant or his or her legal practitioner.
 - (2) Applicants and their legal practitioners must understand that officers whose names appear on a duty roster may not have their own transport and may not be able to reach the court building or their offices in order

to attend to an application; and in that event it is the responsibility of the Applicant or his legal practitioner to convey the officer concerned to the court building or his or her office, as the case may be, and then back to his or her home.

5. All applications must be channelled through the office of the Registrar and on no occasion should an application be referred to a Judge without the involvement of the office of the Registrar. As has been the practice in the past, the judge presiding over the unopposed roll becomes the duty Judge for purposes of urgent applications for the week. Where however it is not possible for the Registrar to contact the duty Judge, any of the other Judges presiding over the opposed roll will be approached to assist.
6. This practice direction does not affect the discretion of a Judge, in terms of the Rules, to give whatever directions he or she thinks fit regarding the procedure to be adopted for dealing with an application to which this practice direction applies.



27 MARCH 2013
CHIEF MAGISTRATE AND CHIEF REGISTRAR
JOINT CIRCULAR NUMBER 1 OF 2013

- To: (A) Senior Regional Magistrates
 Attention:
- Mrs Muremba-Central Division
 - Mr Mujaya- Eastern division
 - Mr Tagu-Western Commonange
- (B) Provincial Heads
 Attention:
- Mr Masimba – Matabeleland North
 - Mr Mugova- Mashonaland West
 - Mrs Gofa- Harare
 - Mr Singano- Mashonaland Central
 - Mrs Mungwari- Manicaland
 - Mrs Msipa- Midlands
 - Mr Magate-Masvingo
 - Mr Chikwkwe-Matabeleland South
 - Mr Nyathi-Mashonakland East
 - Registrar of the High Court
 - Deputy Registrar Criminal- Attention Mr Matemadombo
 - Deputy Registrar- Bulawayo High Court Attention –Mr Hwara

**REF: GUIDELINES TO NOTING OF CRIMINAL APPEALS FROM THE
 MAGISTRATES COURT TO HIGH COURT**

It has come to our attention that there is a fragmented approach by the magistrates' courts and the Registrar's office on managing and dealing with criminal appeals from the magistrates courts to the High Court.

The guidelines hereto are meant to synchronise the operations of the two courts. These guidelines are in terms of the Supreme Court (Magistrates Court) (Criminal Appeals) Rules, 1979. You are expected to ensure strict compliance with these guidelines.

.....
 M. Guvamombe
Chief Magistrate

.....
 W. Chikwana
Acting Chief Registrar

Cc: Honourable Chief Justice
Attention : Mr Justice G. G Chidyausiku

Cc: Honourable Judge President
Attention : Mr Justice G Chiweshe

GUIDELINES TO NOTING OF CRIMINAL APPEALS FROM THE MAGISTRATES COURTS TO HIGH COURT

PREPARED IN TERMS OF THE SUPREME COURT MAGISTRATES COURT (CRIMINAL APPEAL) RULES 1979

1. An appeal against conviction or conviction and sentence should be noted within 10 days of the passing of sentence. Magistrates should provide the reasons for judgment and sentence, at the time of handing down of judgment or sentence as the case may be, to avoid extension of time of noting of appeal by an appellant.

NB Where an appeal is noted after the stipulated ten (10) days. The Clerk of Court should not accept the appeal, unless the appellant seeks leave from the High Court to file the appeal out of time.

- **The Registrar should not accept to be served a Notice of Appeal that was filed out of time.**
2. At the time of noting the appeal, the appellant must deposit with the Clerk of Court the cost of one copy of the record estimated by the Clerk of Court unless the Clerk of court would have given an extension, which extension should not be more than 5 days.

NB Where an appellant fails to pay for the estimated cost of preparing the record this shall invalidate the noting of the Appeal and the Clerk of Court is required to immediately inform the Registrar of the High Court.

- **The Registrar should in turn dismiss the appeal as the noting of that appeal will be invalid/ See Rule 22 (4)**
3. Whilst Lawyers and Appellants are allowed to give written undertaking to pay the costs of preparing the record after the record has been prepared. The clerk of Court is not obliged to accept the written undertaking. The Clerk of court may still refuse to accept the written undertaking and insist that the estimated cost be paid first (see Rule 22 (2), proviso)
 4. A copy of the Notice of appeal noted with the Clerk of Court shall be served on the Registrar by the appellant [see Rule 22(5)].
NB: It is improper for the appellant to file a notice of appeal with the Registrar, first before filing it with the Clerk of Court. The notice of Appeal must first be filed with clerk of court before serving it with the Registrar.
 - **It is equally improper for the Registrar of the High court to allow an appellant to note the appeal with the High Court first.**

RESPONSE BY THE MAGISTRATE

5. Once the appeal has properly been noted, the magistrate should strictly adhere to the 5- day period to respond to the grounds of appeal. Magistrates are reminded of the law to the effect that they are enjoined to respond to the grounds as opposed merely stating that they have “no comment.” In other words, from Rule 23(1) and case authority, the trial magistrate is under a duty to respond and to do so within the stated period.



PREPARATION OF RECORD

1. Within 20 days of the noting of an appeal, the clerk of court should submit the original record and 5 copies thereof to the Registrar of the High Court. A further copy should be delivered to the appellant.
2. The Chief Magistrate's circular No 1712 dated 27 November is still opposite on how the record of Appeal should be prepared and the contents thereof should strictly be observed to minimise the instances where records are returned to court of origin
3. The receipt of payment of record preparation should be attached to the cover of the original record and the Registrar of the High Court should not accept any record, the payment of which has not been confirmed by such receipt

.....
M. Guvamombe
Chief Magistrate

.....
W. Chikwana
Acting Chief Registrar

Cc: Honourable Chief Justice
Attention : Mr Justice G. G Chidyausiku

Cc: Honourable Judge President
Attention : Mr Justice G Chiweshe



2 July 2013
**CHIEF MAGISTRATE AND CHIEF REGISTRAR
 JOINT CIRCULAR NUMBER 2 OF 2013**

- TO: (A) Senior Regional Magistrates**
Attention:
- Mrs Muremba – Central Division
 - Mr Mujaya – Eastern Division
 - Mr Tagu – Western Division
- (B) Provincial Heads**
Attention:
- Mr Magate – Matabeleland North
 - Mr Mugova - Mashonaland West
 - Mrs Gofa - Harare
 - Mr Singano – Mashonaland Central
 - Mrs Mungwari – Manicaland
 - Mrs Msipa – Midlands
 - Mr Ndokera – Masvingo
 - Mr Chikwekwe – Matabeleland South
 - Mr Nyathi – Mashonaland East
 - Registrar of the High Court- Mr Msipa

**REF : GUIDELINES TO NOTING OF CIVIL APPEALS FROM THE
 MAGISTRATES COURT TO HIGH COURT**

Please, find attached Guidelines to Noting of Civil Appeals from the Magistrates Court to High Court. The Guidelines are in terms of the Magistrates Court Civil Rules, 1980 and Supreme Court Rules, 1964.

You are all expected to comply with the requirements stated therein.

.....
 M. GUVAMOMBE
CHIEF MAGISTRATE

.....
 W. CHIKWANA
ACTING CHIEF REGISTRAR

CC: Honourable Chief Justice
Attention: Mr Justice G.G. Chidyausiku

CC: Honourable Judge President
Attention: Mr Justice G. Chiweshe

CC: Secretary Judicial Service Commission
Attention: Mr Justice Kudya





LC/STD/L/10/18

Date.....

Case No.....

Address

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

Attention.....

RE:

An Appeal/Application/Review has been filed in respect of the above matter. Please forward to us the record of proceedings so that we can process the same.

For: REGISTRAR

.....

Cc

.....

.....



LC/STD/C/05/19

OPPOSED MATTERS

LABOUR COURT OF ZIMBABWE

HELD AT.....

Case numberX-ref

IN THE MATTER BETWEEN

..... APPLICANT(S)

AND

..... RESPONDENT(S)

The following has been checked and verified:-

ITEM	YES	NO	N/A
1. Application has been properly filed			
2. Proof of service of application on Respondent has been filed			
3. Notice of response/opposition filed			
4. Applicant Heads of Argument filed			
5. Respondent Heads of Argument filed			
6. Record has been properly paginated and indexed			

Record checked and referred by

Name

Date



LC/STD/C/7/19

UNOPPOSED MATTERS

LABOUR COURT OF ZIMBABWE

HELD AT.....

Case numberX-ref

IN THE MATTER BETWEEN

APPLICANT(S).....

AND

.....
RESPONDENT(S)

TO: HONOURABLE JUSTICE

DATE

For your consideration in chambers is an application for

.....

The following has been checked and verified

ITEM	YES	NO	N/A
1. Application has been properly filed			
2. Proof of service of application on Respondent has been filed			
3. Consent order or deed of settlement has been filled			
4. <i>Dies induciae</i> for filing Notice of Opposition /response has expired			
5. Record has been properly paginated and indexed			

RECORD CHECKED BY

NAMEDATE

JUDGE'S COMMENT(S)/DIRECTIVE(S)



Date

Address

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

RE:

We refer to your application/ appeal/ review filed on.....

You were supposed to file proof of service in the above matter. To date, no such proof of service has been received.

Accordingly, the matter is regarded as abandoned in terms of Rule 46 (a) of the Labour Court Rules, 2017.

Should you be aggrieved by this decision, **you will find recourse in the** Rules of the Court.

.....
For: REGISTRAR

Cc
.....



Our Ref

Your Ref:

Date

Address

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

RE:

We refer to the above matter.

You were served with the notice of response/opposition on.....
According to Rule 26 (1) (a), you were supposed to file Heads of Arguments within ten (10) days, but to date we have not received any.

Accordingly, the matter is deemed abandoned in terms of Rule 46 (b) of the Labour Court Rules 2017.

Should you be aggrieved by this decision you will find recourse in the Rules of the Court.

For: REGISTRAR

Cc
.....
.....





Our Ref:

Your Ref:

Date:

To:

.....

RE:

.....

Please be advised that the Supreme Court record in the above matter is now ready for photocopying as per Rule 46 (1) of the Supreme Court Rules, 2018.

You are therefore requested to come and deposit..... for preparation ofcopies of the record within five (5) days of receipt of this letter.

If as a party you fail to come within five (5) days of receipt of this letter, the **Registrar** of the Supreme Court will be notified accordingly without further notice to you.

Yours faithfully

For: REGISTRAR, LABOUR COURT

Cc:



Date.....

MESSRS.....
.....
.....
.....

Dear Sir/Madam

RE.....
.....

Reference is made to an appeal/application filed on in respect of the above matter.

You are required, in terms of Rule 8(1) of the Administrative Court (Miscellaneous Appeals) Rules, 1980, to lodge with the Registrar a record of proceedings or reasons for the decision concerned, together with all the papers relating to the matter in issue.

Please note that you are required to submit the above requested record as soon as possible not later than 30 days of receipt of this notification.

Failure to comply with the above, the record will be placed before the Judge for a decision.

For: REGISTRAR OF THE ADMINISTRATIVE COURT



ADMINISTRATIVE COURT APPEALS CHECKLIST

CASE NO.

ITEM	DESCRIPTION	YES	NO
1	NOTICE OF APPEAL		
2	PROOF OF PAYMENT OF COSTS		
3	APPELLANT'S HEADS OF ARGUMENTS		
4	RESPONDENT'S HEADS OF ARGUMENTS		
5	COURT A QUO RECORD OF PROCEEDINGS		
6	ADMINISTRATIVE COURT JUDGMENT/ORDER		

I the undersigned do hereby confirm that the record is ready

NAME.....

SIGNATURE.....

DATE.....



ANNEXURE 'AC3'

Telephone: 0242 792807/2933581

Fax: 0242-794253

Our Ref:

Your Ref:



**Administrative Court of Zimbabwe
Mapondera Building
Cnr 3rd & Samora Machel Ave
Harare**

Date.....

MESSRS.....

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

RE.....

.....

Your application/ appeal filed on..... refers.

To enable us to set the matter down for hearing, please kindly file the following within days of receipt of this minute, failure of which your application/appeal shall be deemed to have been abandoned. The effect will be that the application/ appeal will no longer be before this Honourable Court and all parties will be notified accordingly.

- Proof of service of notice of appeal/ application.
- Proof of payment for security costs for service of notices of set down.



**ADMINISTRATIVE COURT
APPLICATIONS CHECKLIST**

ITEM	DESCRIPTION	YES	NO
1.	Chamber Application		
2.	Founding Affidavit		
3.	Proof of Payment		
4.	Certificate of Service		
5.	Notice of Opposition		
6.	Answering Affidavit		
7.	Applicant's Heads of Arguments		
8.	Respondent's Heads of Arguments		
7.	Index and Pagination [Rule 227(2)(d)]		

I, the undersigned do hereby confirm that the record is ready for set down.

Name.....

Signature.....

Date.....



ANNEXURE 'AC5'

Telephone: 0242 792807 /2933581

Fax: 04-794253



Administrative Court of Zimbabwe
Mapondera Building
Cnr 3rd & Samora Machel Ave
Harare

Our Ref:

Your Ref:

Date

.....

.....

.....

RE: _____

Reference is made to your appeal/application filed on

It is noted that your matter was postponed *sine die*/removed from the roll/struck off the roll on

We note that a period of three (3) months, calculated from the time the Honourable Judge postponed the matter *sine die*/removed it from the roll, has expired.

In terms of Paragraph 10 of Practice Direction 3/13, the matter is hereby regarded as abandoned and therefore deemed to have lapsed.

Should you be aggrieved by this decision, you will find recourse in the Rules of the Court.

For: REGISTRAR

C.C.

.....

.....



SUPREME COURT APPEALS CHECKLIST

ITEM	DESCRIPTION	YES	NO
1.	Notice of appeal		
2.	Proof of payment of costs		
3.	Administrative Court Record of Proceedings		
4.	Certificate of Service		
5.	Court <i>a quo</i> Record of Proceedings		
6.	Court Judgment Order		
7.	Certificate of Inspection		
8.	Registrar's Certificate		

I, the undersigned do hereby confirm that the record is ready.

NAME.....

Signature.....

Date.....



.....2020

Date

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

RE: INVITATION TO INSPECT APPEAL RECORD.....

.....
This letter serves to invite you to call in at the Office of the Registrar, Administrative Court at Harare in Room 49 and inspect the record of appeal in terms of Rule 17(1) of the Supreme Court Rules 2018.

Take notice that if the Appellant or his/her representative fails to inspect the appeal record within 10 days of being served with this letter or within any further time granted; the Registrar of the Supreme Court will be notified accordingly.

Yours faithfully

For: REGISTRAR OF ADMINISTRATIVE COURT



IN THE SUPREME COURT OF ZIMBABWE
HELD AT HARARE

SC /20
ACC /20

IN THE MATTER BETWEEN

.....
APPELLANT

AND

.....
RESPONDENT

REGISTRAR'S CERTIFICATE

Certified as true and complete copy of transcript record in this matter, prepared in accordance with the Supreme Court rules.

REGISTRAR

Dated at Harare this Day of 2020

CERTIFICATE OF INSPECTION OF TRANSCRIPT RECORD

Appellant's and Respondent's Legal Practitioners affirm that Rule 8 of Statutory Instrument 78/2000 has been complied with.

Appellant's Legal Practitioners

1st Respondent's Legal Practitioners

Signature

Signature

Date

Date

2nd Respondent's Legal Practitioners

3rd Respondent's Legal Practitioners

Signature

Signature

Date

Date



Telephone: 0242-792807/2933581

Fax: 04-794253

Our Ref:

Your Ref:



Administrative Court of Zimbabwe
Mapondera Building
Cnr 3rd & Samora Machel Ave
Harare

Date.....

MESSRS.....

.....

.....

.....

Dear Sir/Madam

RE: PAYMENT FOR REGISTRAR'S COSTS.....

Appellant is hereby advised to deposit with the Registrar the amount of \$....., being costs of preparing the appeal record in this matter within 5(five) days of being served with this letter.

Take notice that upon failure to comply with the requirements of this letter, the Registrar of the Supreme Court will be notified accordingly.

FOR: REGISTRAR
ADMINISTRATIVE COURT

C.c. Registrar – Supreme Court



IN THE SUPREME COURT OF ZIMBABWE
HELD AT HARARE

SC /20
ACC /20

IN THE MATTER BETWEEN

.....

APPELLANT

AND

.....

1ST RESPONDENT

.....

2ND RESPONDENT

CERTIFICATE BY REGISTRARS

I..... REGISTRAR OF THE
ADMINISTRATIVE COURT CERTIFY THAT THE RECORD HEREIN IS A CORRECT, CONCISE,
LEGIBLE AND THE PROPER APPEAL RECORD IN THE ABOVE MATTER.

SIGNED:

DATE:

I..... REGISTRAR OF THE SUPREME COURT,
CERTIFY THAT THE RECORD HEREIN IS CORRECTLY PAGINATED AND INDEXED, IS CLEAR,
LEGIBLE AND IS A PROPER RECORD READY TO BE SET DOWN.

SIGNED:

DATE:



Telephone: 0242-792807/2933581

Fax: 04-794253



Administrative Court of Zimbabwe

Mapondera Building

Cnr 3rd & Samora Machel Ave

Harare

Our Ref:

Your Ref:

Date _____

Date:

The Registrar
Supreme Court
HARARE

RE: FAILURE TO PAY REGISTRAR'S COSTS RULE 46(5).....

The above-mentioned and our invitation to pay for the preparation of the appeal record dated _____ and served on _____ refers.

The Appellant(s) has/have failed to pay for the preparation of the appeal record in terms of Rule 46 (5) of the Supreme Court Rules, 2018.

Yours faithfully

For: REGISTRAR OF THE ADMINISTRATIVE COURT





ADMINISTRATIVE COURT OF ZIMBABWE STATISTICAL REPORT AS AT

NATURE	CASE B/F	RECEIVED	TOTAL	REFERRED TO JUDGE	COMPLETED	CASES C/F	BACKLOG STATUS	CLEARANCE RATE
APPEALS								
APPLICATIONS								
GRAND TOTAL								

KEY

CASES B/F

Denotes the number of cases brought forward from the previous month.

RECEIVED

Denotes the number of cases received in a given month.

TOTAL

Denotes cases brought forward plus cases received.

COMPLETED

Denotes the total sum of cases finalised and is composed of matters with orders, withdrawn, settled, Struck off the roll, dismissed by the Registrar and those for which judgment has been handed down.

CASES C/F

Denotes total cases minus completed cases.

NOTES:



ADMINISTRATIVE COURT OF ZIMBABWE JUDGE'S STATISTICS AS AT.....

NATURE	CASES B/F AS AT	REFERRED TO JUDGE	TOTAL WORKLOAD	MATTERS DEALT WITH/FINALIZED	PENDING AS AT
APPEALS					
APPLICATIONS					
GRAND TOTAL					

KEY

Matters dealt with/finalized breakdown

- Struck off the Roll
- With orders
- Judgments
- Withdrawn
- Removed from the Roll
- Postponed *sine die*

CHIEF REGISTRAR

GENERAL CIRCULAR NO. 1 OF 2013

To:

- Acting Deputy Registrar Supreme Court – Attention: Mr Mutakiwa
- Acting Registrar High Court – Attention: Mr Msipa
- Acting Registrar Labour Court – Attention: Mr Mudefi
- Acting Registrar Admin Court – Attention: Mrs Ntungakwa

RE: GENERAL OPERATIONS: GUIDELINES

The following operational guidelines should be adhered to with immediate effect.

(i) Missing Records

It is noted that court records continue to go missing because there is no accountability at all on how records move from one office to another. There is a complete disregard of records movement registers.

- Henceforth any failure to properly record and account for court records will be treated as an act of misconduct.
- Where any court record goes missing that fact should be brought to the attention of the Registrar by way of a memorandum. The Registrar is required to ensure that a diligent search is carried out and advise the parties accordingly.
- If the record is not found, this fact should be brought to the attention of the Chief Registrar within one week of missing the record.

(ii) The need to advise parties when judgment is being delivered

The Judges' Clerks are required to advise parties when judgment is delivered by the Honourable Judges. The Registrars must ensure that this directive is complied with by all Judges Clerks.

(iii) Court Orders

- All court orders must now be typed on special paper with security features.
- Court orders that are issued by 3 pm, must be typed, signed and handed over to parties on the same day. Those that are issued after 3 pm must be ready for collection by 10 am the following day.

- Any act by any member of staff that is aimed at delaying the typing of a Court Order or handing it over to the parties will be treated as an act of misconduct.

(iv) **Response to queries and complaints**

There is a tendency by all Registrars not to respond to complaints and queries or to respond late.

- All letters written to the Registrar should be responded to by the Registrar and the response should be made within a period of three days.

(v) **Issuing of process**

All court process should be issued in one office, the registry office. Judges' Clerks are **NOT** permitted to issue court process.

- When registry officers issue court process, they are required to stamp the process and append their signatures on the stamp.

(vi) **Date Stamps**

There is an increase in the abuse of date stamps at our courts. Date stamps are security items and all officers issued with date stamps are required to keep them secure and account for them at all times.

(vii) **Liaison Meetings**

All Registrars are required to hold weekly management meetings with sections and office heads. The meetings shall deal with operational issues affecting each section or office. Minutes of such meetings must be submitted to the Chief Registrar. General staff meetings should be held with all members of staff regularly or at least twice a year. Regular meetings should also be held with the Judge President, Senior Judge and Senior President to apprise them on the operations of the courts.

(viii) **Monitoring and Evaluation Visits**

All Registrars are required to make announced and unannounced (impromptu) station visits regularly or at least once every three months. A report of such visits must be prepared and submitted to the Chief Registrar.

(ix) **Preparation of Appeal Records to Supreme Court**

Not enough records are being prepared and submitted to the Supreme Court. The Registrars are required to closely supervise the preparation of records of appeal.

- Weekly reports should be submitted to the Chief Registrar on the number of Appeal Records prepared for that week.

- To avoid incidences of corruption, ensure that records are prepared on a first- in- first out basis.
- There should be strict compliance with the rules of the court.

This circular must be circulated to all members of staff in the Superior Courts Department.

Registrars are required to put in place mechanisms that will ensure compliance and implementation of directives in this circular.

.....
W. Chikwana
ACTING CHIEF REGISTRAR



GUIDELINES ON SERVICE OF NOTICES OF SET DOWN

The Guidelines shall apply to Notices of Set Down for the following matters

- (A) **Appeals**
- (B) **Applications**
- (C) **Pre- trial Conferences**

- (i) At the time of filing the Notice of Appeal, Applications or Pre-trial Conference request, the Registrar of that court shall direct the litigant to deposit with the Sheriff security for costs of service of Notice of Set Down.
- (ii) A note duly stamped by the Registrar shall be given to the litigant requesting the Sheriff to accept fees for costs of service of Notice of Set down.
- (iii) The Registrar should advise the litigant to submit a copy of receipt of the payment made to the Registrar's office within five days.
- (iv) After submission of receipt by the litigant, it shall be stapled inside the record opened by the Registrar.
- (v) Where a receipt is not submitted within five days, the matter shall be deemed to have been abandoned and should be dismissed by the Registrar.
- (vi) Upon receipt of the request to accept payment, the Sheriff should determine the amount to be paid and refer the litigant to Accounts Office for payment.
- (vii) After payment has been done the Sheriff should record the details of the matter including the receipt number in the Notice of Set-Down Register.
- (viii) When a matter is ready for set-down, the Registrar shall refer the Notice of Set-Down to the Sheriff for service to be effected.
NB: All Notices of Set Down shall include the amount paid as security for costs and the receipt number.
 The Sheriff shall not accept a Notice of Set Down which does not contain the information stated above.
- (ix) The Sheriff shall serve the Notice of Set Down within 48 hours of receipt and furnish the Registrar with the return of service within five days from the date of service.
NB: Where the Sheriff fails to comply with the timelines stated above, the Registrar shall write a memorandum to the Sheriff to comply and the memorandum must be copied to the Chief Registrar.
- (x) The Sheriff is required to prepare and submit monthly returns of all security for costs deposits made for service of Notices of Set Down to the Chief Registrar.

.....
 W. Chikwana
ACTING CHIEF REGISTRAR

M E M O R A N D U M

To : All Additional Sheriffs

Cc: Secretary – Judicial Service Commission
Sheriff

From : Acting Chief Registrar

Date : 14 March 2014

REF : SERVICE OF PROCESS

It has been observed that we are take unduly long time to serve court process and this is affecting the smooth operations of the courts.

Henceforth the following measures should be complied with;

- (a) All Notices of Set-Down should be served within the day they are issued by Registrars.
- (b) Notices of Set-Down for urgent applications should be served immediately on receipt from Registrars.
- (c) Ordinary process should be actioned and served within 24 hours of receipt.
- (d) Each Additional Sheriff is required to serve not less than 25 processes per day.
- (e) Additional Sheriffs are required to complete daily process reconciliation forms indicating process received, process served, process not served and explanation on why such process was not served.

DAILY PROCESS RECONCILIATION

Name of Additional Sheriff:

Date of Report:

Outstanding Processes
(Be Specific)

Notice of Set-Down.....
Other processes

Total:

[Empty box for Total]

New processes

Notice of Set-Down
Others processes

Total: _

[Empty box for Total]

Grand Total:

[Empty box for Grand Total]

Process Served

Notice of Set-Down
Other processes

Total:

[Empty box for Total]

[Empty box for Total]

Balance: _____

Remarks (commenting on the number of processes served and outstanding)

Balance of Notices of Set-Down:

Balance of other processes:

Comments:.....
.

Assistant Sheriff notices of Set-Down:

Assistant Sheriff processes:

Additional Sheriff Signature:



**SHERIFF OF ZIMBABWE
HIGH COURT OF ZIMBABWE
PO BOX CY 275
CAUSEWAY
HARARE
TEL – (04) 796738**

**CONDITIONS OF SALE REGARDING THE SALE OF IMMOVABLE PROPERTY MADE IN
TERMS OF ORDER 40 RULE 353 OF THE HIGH COURT RULES**

GENERAL

- 1) The sale shall be conducted by an Auctioneer appointed by the Sheriff in terms of order 40 Rule 350 A of the High Court Rules, 1971 and it shall be by public auction without reserve. It shall be held at such place as the Sheriff shall determine as being the most convenient for prospective buyers.
- 2) The public auction shall be held in the presence of the Sheriff and or his commissioner who shall certify to the Sheriff that the public auction was duly and properly conducted. In his certificate, the Commissioner shall state the name of the Judgment Debtor and Judgment Creditor, the amount of the purchase price, the name of the highest and second highest bidders and any other information that may be relevant to the sale.
- 3) During the sale the Sheriff shall declare the highest bidder to be the purchaser if he is satisfied that the highest price offered is reasonable.

NB: The highest bidder may not withdraw his bid prior to the date of confirmation of the sale or rejection of his offer. If he elects to withdraw, he forfeits his security deposit.

- 4) The Sheriff reserves the right to regulate the bidding and refusal of any bid.

5) REQUIREMENTS FOR ONE TO PARTICIPATE IN THE SALE

- a) To participate in the sale all prospective purchasers shall deposit the sum of ZWL\$20 000-00 with the appointed Auctioneer at least two days before the date of the sale in execution

NB: Any deposit paid by a tenderer shall ONLY be refunded in full under the following circumstances: -

- i) to all unsuccessful bidders or
- ii) in the event of the sale being set aside by a competent court.
- iii) Failure by the auctioneer to receive and confirm the said deposit, the auctioneer shall be liable for the deposit to the Sheriff and any wasted costs and resale costs incurred as a result of such failure.



In addition to the purchase price, the purchaser shall pay:
The auctioneers commission of five (5) percent of the purchase price. The auctioneer's commission is over and above the purchase price and should be paid directly to the auctioneer.

In the event of the highest bidder failing to pay the full purchase price after confirmation the ZW\$20 000 deposit will be forfeited by the Sheriff, and Sheriff will proceed to sell the property by private treaty.

NB: This shall be paid directly to the Auctioneer upon confirmation of the sale, unless other arrangements are made with the Auctioneer.

The costs of transfer, including the conveyancer's charges, stamp duty and any of the fees as may be presented.

All arrear rates and any other charges as may be necessary to complete the transfer

VAT: 15 percent VAT

NB: wherever applicable the Judgment Debtor may apply for exemption with ZIMRA.

PAYMENT OF PURCHASE PRICE

Any person who attends the auction to bid on behalf of another (i.e. on behalf of a company or a third party) must produce a written (power of attorney and /or resolution from members) that expressly authorizes him or her to bid on behalf of that person or company. When bidding on behalf of a company the letter of authority must appear on the letterhead of a company and must be accompanied by a certified resolution authorizing him or her to bid on behalf of the company.

Sheriff's sales are cash sales. Payment of the full purchase price shall be made on the date of sale or at least within one week from the date of confirmation of the sale.

15 percent VAT shall be added on top of the purchase price and shall be paid together with the purchase price.

NB: The highest bidder who is confirmed the purchaser but fails to pay the full purchase price within a period of seven days from date of confirmation shall have his deposit of \$20 000 forfeited, as stipulated in Condition 5 (b) above. The Auctioneers commission should also be paid within seven days from date of confirmation directly to the Auctioneer.

MANNER OF PAYMENT

The purchase price shall comprise of:

- a) A deposit of \$20 000-00 to be lodged with the Sheriff at least two days before the date of sale.

- b) The balance of the purchase price which shall be paid into the Sheriff's account within seven (7) days from the date of confirmation of sale unless if the Sheriff grants an extension of the time within which to pay the purchase price.

NB: In the event of failure to do so the sale shall be deemed cancelled and property is re-advertised for sale.

- c) Payment shall be RTGS cash or bank cheques into the Sheriff's CBZ BANK ACCOUNT NO 02123886430017 SELOUS BRANCH HARARE. The purchaser to indicate on the deposit slip the Sheriff Sale (SS) number and (HC) file number.
- d) i. Purchasers that wish to purchase an immovable property on the Sheriff sale using a mortgage loan facility are also required to pay deposit of ZWL\$20 000.00 which will go towards the purchase price should the sale be confirmed.
- ii. Further such purchasers are required to bring a letter of undertaking from the financial institution seven (7) days after confirmation or the sale may be cancelled.

(Sheriff reserves the right to extend the presentation period of the letter of undertaking)

NB: Proof of payment should be availed to the Sheriff's accounts department on the date of payment. There shall be no sale if the purchase price is not paid in full to the Sheriff.

3) EFFECTIVE DATE OF SALE

The effective date of sale shall be the date of the confirmation of the sale

4) RISK AND PROFIT

Ownership, risk and profit shall pass from the seller (Sheriff) to the purchaser upon transfer. The Sheriff however does not give warranty for vacant possession.

Any loss of value as a result of (a) delay in the finalization of transfer or (b) as a result of court process or litigation shall not be accrued to the seller (Sheriff). All participants in judicial sales do so of their own volition and should acquaint themselves of the risks thereof.

5) OBJECTIONS TO THE SALE

- a) In terms of Order 40 Rule 359 (1) of the High Court Rules, 1971 any person having an interest in the sale may within 15 days of the Sheriff having declared the highest bidder to be the purchaser, make a request to the Sheriff to have it set aside on the grounds that the sale was improperly conducted or the property was sold for an unreasonably low sum or any other good ground.
- b) In the event of there being no request made within the said period of 15 days the Sheriff shall confirm the sale.



6) SPECIAL CONDITIONS

- a) The property is sold *voestoots* (as it is). It shall be sold without guarantee and prospective purchasers must inspect it before purchasing the same.
NB: No liability shall attach to the Sheriff for any inaccurate description of the property.
- b) The property is sold as presented on the Title Deeds and the Sheriff does not hold himself liable for any deficiency whatsoever and renouncing all excess. The Sheriff does not hold himself responsible for the determination of boundaries and beacons. This shall be the responsibility of the purchaser.
- c) In the event of any dispute between the bidders the decision of the Sheriff will be final.
- d) Any error or mistake made by the auctioneers or the Sheriff in selling, is not binding on any of the parties and shall be corrected by the Sheriff.

7) BREACHES

a) DEFAULT AND BREACH BY THE PURCHASER

Notwithstanding anything to the contrary contained in this document and notwithstanding any extension of time or other indulgence or concession granted by the Sheriff (Seller) to the purchaser, if the purchaser shall omit to observe or perform any of the terms, conditions, or stipulations as contained in the document, including payment of any amount by due date, and shall fail to rectify any such breach within seven (7) days or dispatch of written notice by the Sheriff the Sheriff shall be entitled to cancel the sale.

b) DEFAULT BY THE SELLER (SHERIFF)

If the seller (Sheriff) shall be in breach of any obligation and undertaking and shall fail to rectify any such breach within seven (7) days of dispatch of written notice given by the purchaser to the Sheriff, the purchaser shall be entitled to cancel the sale without prejudice to the purchaser’s right to recover any damages suffered as a result of the breach.

I, the undersigned
Residing at.....
In the district of

Do hereby bind myself as the purchaser of the above mentioned property to pay the purchase price and interest in the manner set out and to perform all the conditions mentioned above.

The purchase price and interest will be paid as follows:
I/WE, Undersigned:

And

Of

Do hereby interpose and bind ourselves severally and co-principal Debtors and Sure-

ties *in solidium* for the due and punctual payment of the aforesaid purchase price and interest, and for the faithful performance of all singular obligations contained in the above mentioned conditions of sale, and we do hereby expressly renounce the *beneficium ordinis seu excussionis et divisionis* with the meaning of which we declare ourselves acquainted.

For the due performance of the aforesaid obligations, we the said principal debtor and sureties hereby bind our persons and property according to law:

In witness whereof, we have hereunto subscribed our names on this the day of
.....

Purchaser

First Surety

In presence of:.....

Auctioneer

Before me

Sheriff





