

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 58 OF 2020

The High Court Act
(Cap. 27, Volume 3, Laws of Zambia)

The High Court (Amendment) Rules, 2020

IN EXERCISE of the powers contained in sections 44 and 45 of the High Court Act, the following Rules are made:

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|---|------------------------------|
| 1. These Rules may be cited as the High Court (Amendment) Rules, 2020, and shall be read as one with the High Court Rules, in these Rules referred to as the principal Rules. | Title
Cap. 27 |
| 2. Order II of the principal Rules is amended by the deletion of the words “the Court or” wherever they appear. | Amendment
of Order II |
| 3. Order III of the principal Rules is amended by the deletion of rule 3 and the substitution therefor of the following: | Amendment
of Order III |
| 3. (1) Subject to sub-rules (2) and (3), the Registrar may transact any business and exercise authority and jurisdiction as a Judge at chambers may transact or execute under the Act or any other written law. | Jurisdiction
of Registrar |
| (2) An interlocutory application shall be made to and heard by a Judge at chambers unless a Judge directs that it be heard by the Registrar. | |
| (3) The Registrar shall not transact business or exercise the authority or jurisdiction in respect of— | |
| (a) matters relating to criminal proceedings or to the liberty of a person; | |
| (b) appeals from District Registrars; | |
| (c) injunctions; and | |
| (d) reviewing taxation of costs, save as provided in Order XL rules 3 and 4. | |

Amendment
of Order VI

4. Order VI of the principal Rules is amended by the deletion of rule 1 and the substitution therefor of the following:

Commence-
ment
of
proceedings

1. (1) Except as otherwise provided by any written law or these Rules, an action in the High Court shall be commenced, in writing or electronically by writ of summons endorsed and accompanied by—

- (a) a statement of claim;
- (b) list and description of documents to be relied on at trial;
- (c) list of witnesses to be called by the plaintiff at trial; and
- (d) letter of demand whose receipt shall be acknowledged by the defendant or an affidavit of service attesting to the service of the letter of demand, which shall set out the claim and circumstances surrounding the claim in detail.

(2) A writ of summons which is not accompanied by the documents under sub-rule (1) shall not be accepted.

(3) A matter which, under any written law or these Rules, may be disposed of in chambers shall be commenced by an originating summons accompanied by an affidavit in support.

(4) The proper officer shall—

- (a) seal, with the official seal, the writ of summons and the statement of claim where that statement of claim is on a separate sheet;
- (b) stamp the accompanying documents with the official stamp; and
- (c) return the copies of the writ of summons, statement of claim and accompanying documents to the person commencing the action.

Amendment
of Order XI

5. Order XI of the principal Rules is amended by the deletion of Rule 1 and the substitution therefor of the following:

Mode of
entering
appearance

1. (1) A defendant shall enter appearance to a writ of summons by delivering to the proper officer, in writing or electronically, sufficient copies of the—

- (a) memorandum of appearance dated on the day of delivery and stating, as the case may be—
 - (i) the name of the defendant's advocate; or
 - (ii) that the defendant is defending in person;
- and

(b) defence and the counterclaim, if any, together with a list of—

(i) description of documents to be relied on by the defendant at trial; and

(ii) list of witnesses to be called by the defendant at trial.

(2) The proper officer shall—

(a) seal the memorandum of appearance and the defence;

(b) stamp the accompanying documents with the official stamp; and

(c) return copies of the memorandum of appearance, defence and accompanying documents to the person filing them for service on the plaintiff.

(3) The Court shall not accept an appearance after the entry of judgment in default of appearance, unless the judgment in default of appearance is set aside.

6. Order XII of the principal Rules is amended in rule 1 by the deletion of the words “Deputy or District Registrar” and the substitution therefor of the word “Judge”.

Amendment
of Order XII

7. Order XV of the principal Rules is amended by the deletion of the words “the Court or”, wherever the words appear.

Amendment
of Order XV

8. Order XVI of the principal Rules is amended by the deletion of the words “the Court or” wherever the words appear.

Amendment
of Order
XVI

9. The principal Rules are amended by the deletion of Order XIX and the substitution therefor of the following:

Repeal and
replacement
of Order
XIX

ORDER XIX

PRE-TRIAL DIRECTIONS AND CONFERENCES

1. This Order applies to an action commenced by writ of summons.

Application

2. (1) A Judge shall, within thirty days after the filing of the defence under rule 1 of Order XI, give orders for directions with respect to the following matters:

Order for
directions

(a) reply and defence to counter claim, if any;

(b) inspection of documents;

(c) exchange of bundle of documents and witness statements;

- (d)* admissions;
- (e)* interrogatories; and
- (f)* date for scheduling conference.

(2) The parties shall, not less than seven days before the scheduling conference, prepare a scheduling conference brief and exchange their briefs, which shall include—

- (a)* a concise summary of the facts, including the agreed facts and admissions;
- (b)* a concise summary of the issues and the law to be relied on by each party, including the rights and interests of the party;
- (c)* witness statement which shall contain all the facts relevant to the claim, as the case may be and shall make reference to the documents relied upon in the bundle of documents; and
- (d)* expert reports, if any, and the relevant portions of documents relied on by the parties subject to the applicable Rules of the Supreme Court Practice 1999 Edition.

Scheduling
Conference

3. (1) A Judge shall, at the scheduling conference—

- (a)* consider a party's compliance with orders for directions;
- (b)* plan the trial time;
- (c)* set a date for a status conference;
- (d)* set a date for trial;
- (e)* identify contested and uncontested issues;
- (f)* explore methods to resolve contested issues;
- (g)* where possible, secure an agreement of the parties on a specific schedule of events in the proceedings;
- (h)* narrow or resolve outstanding issues;
- (i)* create a timetable for the proceedings;
- (j)* refer any matter wrongly filed in the principal registry to the correct division of the Court;
- (k)* consider consolidation of actions; and
- (l)* provide the parties and the parties' advocates an opportunity to settle the case or narrow down the issues.

(2) A Judge may, in addition to any other general power, exercise the following powers at a scheduling conference:

- (a)* deal with any interlocutory applications for the expeditious disposal of these applications;

- (b) order the filing and service of necessary further and better particulars within a period that the Court may specify;
- (c) order the giving of evidence on the basis of affidavit evidence or give orders for discovery, production, inspection or interrogatories that may be appropriate to the case;
- (d) order the examination of a witness outside jurisdiction in accordance with Order V rule 30 and admit evidence of that examination in Court;
- (e) make any procedural order;
- (f) by consent of the parties, or where appropriate on the court's own motion, make an order for interlocutory relief;
- (g) make a referral order on its own motion or on the application of a party for—
 - (i) mediation, in accordance with rule 4 of Order XXXI; or
 - (ii) arbitration, in accordance with the Arbitration Act, 2000;
- (h) convene a hearing;
- (i) give suitable directions to facilitate expeditious disposal of the case or any outstanding issue;
- (j) encourage the parties to cooperate with each other in the conduct of the proceedings;
- (k) encourage the parties to settle the whole or part of the case;
- (l) consider whether the likely benefits of taking a particular step justify the cost of taking that step;
- (m) deal with as many aspects of the case as possible on the same occasion; and
- (m) make orders which the Court considers appropriate, including—
 - (i) striking out the action or defence;
 - (ii) striking out a document or part of the document;
 - (iii) making an award for costs; or
 - (iv) creating or amending a case timetable.

Act No. 19
of 2000

(3) A party shall not lodge, and a Judge shall not consider any interlocutory application fourteen days before commencement of trial.

	(4) Subject to subrule (3), a Judge may, in the Judge's discretion, which decision shall not be subject of an interlocutory appeal, entertain an interlocutory application which, with reasonable diligence, could not have been made before the time specified under subrule (3).
Scheduling conference Order	4. A Judge shall, on conclusion of the scheduling conference, issue a scheduling conference order in Form 23A set out in the Appendix.
Status Conference	5. (1) A Judge shall, not less than thirtyone days before the date of hearing of the case, convene a status conference for purposes of (a) confirming the dates for trial; (b) determining any outstanding issues; and (c) considering the length of trial. (2) Each party or the party's advocate shall provide the Judge with information that the Judge may require, in accordance with this Order, for purposes of considering the length of time that may be required for the hearing of the case. (3) A Judge shall order costs against a party or advocate who fails to comply with this Order unless, for reasons to be recorded, the Judge considers that it would not be just to make that order.
Dismissal of action for non attendance by parties	7. A Judge shall dismiss an action if the parties fail to attend a scheduling conference or status conference on two occasions without justifiable cause.
Dismissal of action on lapse of sixty days	8. A Judge may dismiss an action if sixty days after filing of an action, there is no progress.
Amendment of Order XXII	10. Order XXII of the principal Rules is amended by the— (a) deletion of rule 1; and (b) renumbering of rules 2, 3 and 4, as rules 1, 2 and 3.
Amendment of Order XXVI	11. Order XXVI of the principal Rules is amended— (a) in rule 1, by the deletion of the word "five hundred thousand" and the substitution therefor of the words "five hundred"; and (b) by the deletion of the words " the Court or" wherever they appear.

12. Order XXX of the principal Rules is amended—

Amendment
of Order
XXX

- (a) in rule 1, by the insertion, immediately after the word summons of the words, “to be supported by an affidavit”;
- (b) in rule 3, by the deletion of the word “two” and the substitution therefor of the word “four”;
- (c) by the insertion, immediately after rule 3, of the following new rule:

3A. (1) At the time of filing the summons, the applicant shall file skeleton arguments of their case and list of authorities.

Skeleton
arguments
and list of
authorities

(2) The skeleton arguments shall set out as concisely as possible the—

(a) issue arising in the application;

(b) brief arguments that will form the basis of the case by the party filing it and authorities in support; and

(c) reasons for or against the application.

(3) On receipt of the affidavit in support of the application, skeleton arguments and list of authorities, the respondent shall file an affidavit in opposition with skeleton arguments and list of authorities.

(4) The skeleton arguments to be filed by the respondent shall meet the requirements set out under sub-rule (2); and

(d) the insertion immediately after rule 6 of the following new rule:

6A. (1) Where the court is satisfied that the application can be disposed of on the basis of the documents before it, the court may determine the matter without the attendance of the parties or their advocates and shall issue a notice of the date of delivery.

Relying on
documentary
evidence

(2) This rule shall apply to—

(a) an interlocutory application;

(b) an application under Rule 11 (a);

(c) an application for determination of questions of law or construction of documents; or

(d) any other application as may be directed by the court.

Amendment
of Order
XXXI

13. Order XXXI of the principal Rules is amended by the deletion of rule 3 and the substitution therefor of the following:

Lodging of
documents

3. (1) Each of the bundles under Order XIX shall—
- (a) be bound up in book form in chronological order;
 - (b) have the pages thereof serially numbered;
 - (c) contain a complete index of the contents thereof;
 - (d) bear the receipt number of the fees paid on filing; and
 - (e) be endorsed on a back sheet thereon the title of the action, together with the names, physical addresses, email addresses and telephone numbers of the advocates for the parties, or, in the case of a party who has no advocate, of that party.
- (2) The documents shall be clear and legible.
- (3) A bundle which does not comply with the provisions of sub-rule (1) shall not be accepted for filing.

Amendment
of Order
XXXIII

14. The principal Rules are amended by the deletion of Order XXXIII and the substitution therefor of the following:

ORDER XXXIII

ADJOURNMENTS

Adjourn-
ments in
exceptional
circumsta-
nces

1. A Judge shall not grant an application for an adjournment except in compelling and exceptional circumstances.

Notice of
intention to
seek
adjournment

2. A party intending to apply for adjournment of a hearing shall, not less than ten days before the date set for the hearing, file a notice of that intention.

Amendment
of Order
XXXV

15. Order XXXV of the principal Rules is amended by the deletion of rule 6 and the substitution therefor of the following:

Restoration
to active
cause list

6. (1) A party whose application is struck out for nonattendance may apply to restore the application within thirty days from the date the application was struck out, failing which the application stands dismissed.

(2) The Judge may, on the hearing of an application for the restoration of an application struck out for nonattendance by the applicant, where appropriate, order the payment of a hearing fee as a condition for the restoration.

16. Order XXXVI of the principal Rules is amended by the—
(a) deletion of rule 2 and the substitution therefor of the following:

Amendment
of Order
XXXVI

2. (1) A Court may, on conclusion of a hearing—
(a) pronounce its judgment or ruling at once;
or
(b) subject to subrule (2), reserve its judgment or ruling.

Time frame
for delivery
of judgment

(2) Where the Court reserves its judgment or ruling, the Court shall—

(a) give the parties, or the advocates of the parties, notice indicating the date on which the Court shall deliver the judgment or ruling;

(b) in the case of a judgment, deliver the judgment within one hundred and eighty days from the date set for filing of the final submissions; and

(c) in the case of a ruling, deliver it within ninety days after conclusion of the hearing.

(3) Where the Court fails to deliver its judgment or ruling within the period specified in subrule (2), the Court shall—

(a) record the reasons for the failure;

(b) forward to the Chief Justice a copy of the reasons recorded in accordance with paragraph (a); and

(c) immediately give the parties, or the advocates of the parties, notice of the new date on which the Court shall deliver the judgment or ruling; and

(b) insertion of the following new rule immediately after rule 2:

2A. Where—

Contents of
judgement

(a) an action is defended, the judgment shall contain a concise statement of the case, the points for determination, the decision on the case, and the reasons for that decision; and

(b) issues in an action have been framed, the Court shall state, in relation to each issue, the court's finding or decision and the reasons for that finding or decision.

Amendment
of First
Schedule

17. The principal Rules are amended in the First Schedule by the insertion of the Forms set out in Appendix immediately after Form 23.

APPENDIX
(Rule 17)

FIRST SCHEDULE
Order XIX



REPUBLIC OF ZAMBIA

FORM 23A
(Order XIX Rule 4)

IN THE HIGH COURT OF ZAMBIA AT
CIVIL CASE NO.....OF 20
BETWEEN
..... PLAINTIFF(S)
AND DEFENDANT(S)
AND
.....THIRD PARTY

SCHEDULING CONFERENCE ORDER
(Order XIX rule 4)

UPON HEARING THE PARTIES HEREIN AND BY CONSENT at the above-mentioned Court on day of 20 at hours the Honourable Judge in Chambers and by consent of the parties makes the following PRE-TRIAL DIRECTIONS:

- (a) The Plaintiff shall have witnesses and the Defendant witnesses and the anticipated time of trial is hours.
- (b) Parties shall file and exchange witness statements on or before
- (c) Skeleton Arguments and List of Authorities shall be filed on or before
- (d) Status Conference shall be held on
- (e) There shall be at liberty to apply subject to the provisions of Order XIX.
- (f) The costs of scheduling shall be in the cause.

Dated this day of 20

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Judge

SECOND SCHEDULE
Order XIX

FORM 23B
(Order XIX Rule (2)(2)(d))



REPUBLIC OF ZAMBIA

IN THE HIGH COURT OF ZAMBIA AT
CIVIL CASE NO.....OF 20
BETWEEN
..... PLAINTIFF(S)
AND DEFENDANT(S)
AND
.....THIRD PARTY

EXPERT EVIDENCE
(Order XIX rule 2(2)(d))

1. The expert evidence on the issue of shall be limited to the written report of a single expert jointly instructed by the parties.
2. If the parties cannot agree by 17:00 hours on who the expert is to be, the court shall direct that either party shall engage their respective experts by 17:00 hours on
3. Unless the parties agree in writing or the court otherwise orders, the fees and expenses of the single expert shall be paid by the parties equally.
4. The plaintiff has permission to use, in evidence, the written reports(s) of an expert in the discipline of/each of the following disciplines and that report(s) to be served by 17:00 hours on
5. The Defendant has permission to use, in evidence, the written report of an expert in the discipline of/each of the following disciplines And any such report to be served by 17:00 hours on
6. The written reports of the experts shall be agreed if possible and if not agreed, the experts do hold, without prejudice, discussions and do prepare and serve a statement of issues agreed and issues not agreed with a summary of the reasons for any disagreement by 17:00 hours on
7. The plaintiff do file and serve an updated schedule of loss and damage including future loss by 15:00 hours on
8. The Defendant do file and serve a counter schedule by 15:00 hours on

GENERAL DIRECTION—LIBERTY TO APPLY

There shall be liberty to apply subject to Order XIX.

Dated this day of 20

.....
Judge

NOTE: Failure to comply with the directions may result in the case being adjourned and the party occasioning the adjournment to be condemned to costs.

LUSAKA
15th June, 2020
[J.101/8/2]

I. C. MAMBILIMA,
Chief Justice

