

## GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 27 OF 2012

**The High Court Act**  
(Laws, Volume 3, Cap. 27)**The High Court (Amendment) Rules, 2012**

IN EXERCISE of the powers contained in sections *forty-four* and *forty-five* of the High Court Act, the following Rules are hereby made:

- |  |                                       |
|--|---------------------------------------|
| <p>1. These Rules may be cited as the High Court (Amendment) Rules, 2012, and shall be read as one with the High Court Rules, in these Rules referred to as the principal Rules.</p>   | <p>Title<br/>Cap. 27</p>              |
| <p>2. Order VII of the principal Rules is amended —</p> <p>(a) by the deletion of paragraph (a) of sub-rule (1) of rule 1 and the substitution therefor of the following:</p> <p style="padding-left: 40px;">(a) physical, postal and electronic address of the plaintiff;</p> <p>(b) in paragraph (b) of sub-rule (1) of rule 1, by the insertion, immediately after the word “postal”, of a comma and the words “physical and electronic”;</p> <p>(c) in sub-rule (2) of rule 1 by the insertion, immediately after the word “business”, of the words “and electronic mail address”;</p> <p>(d) in sub-rule (1) of rule 2 by the insertion, immediately after the word “postal”, of the words “and electronic mail”;</p> <p>(e) by the insertion, immediately after the word “written”, of the words “or electronic”; and</p> <p>(f) by the deletion of rule 3 and the substitution therefor of the following:</p> | <p>Amendment<br/>of<br/>Order VII</p> |

- Address for service      3. An address for service shall be an address where notices, pleadings, orders, summons, warrants and other documents, proceedings, electronic and written communications, if not required to be served personally, may be left for, transmitted or posted to, the plaintiff or his advocate, as the case may be.
- Amendment of Order X      3. Order X of the principal Rules is amended in rule 18 by the insertion, immediately after the words “originating process itself shall be”, of the words “electronically transmitted.”
- Amendment of Order XI      4. Order XI of the principal Rules is amended in rule 1—
- (a) by the insertion, in sub-rule (1), immediately after the word “writing”, of the words “or electronically”; and
- (b) by the insertion, immediately after sub-rule (3), of the following:
- (4) A defendant may enter a memorandum of appearance together with the defence electronically.
- Amendment of Order XII      5. Order XII of the principal Rules is amended in rule 1, by the insertion, immediately after the words “final judgement”, of a comma and the words “signed by the Deputy or District Registrar.”.
- Amendment of Order XIX      6. Order XIX of the principal Rules is amended—
- (a) in rule 1 by the insertion, immediately after the word “filed” of the words “summon parties to a scheduling conference and”; and
- (b) by the insertion, immediately after rule 2 of the following:
- Scheduling Conference      3. (1) The Court or trial Judge may, at the scheduling conference, refer parties to mediation in accordance with rule 4 of Order XXXI, or where applicable, to arbitration.
- (2) Where a matter is referred to mediation and it is not settled or mediated within forty-five days, the matter shall be referred back to the trial Judge who shall summon the parties within fourteen days to a scheduling conference to chart the events.
- (3) If the failure of mediation is due to non-attendance of any of the parties to the dispute, the Court may order the defaulting party to be liable for all the costs of the litigation whatever the outcome.

(4) A Judge may, after a scheduling conference, summon parties to a compliance or status conference and make any order as to costs against any defaulting party.

7. Order XXXII of the principal Rules is amended—

Amendment  
of Order  
XXXII

(a) in rule 2, by the deletion of sub-rules (5), (6) and (7) and the substitution thereof of the following:

(6) Every record made by means of recording apparatus shall be kept both in electronic form and hard copy.

(7) In case of a hard copy, unless the presiding Judge or Registrar shall otherwise direct, every record of evidence made in shorthand shall be placed in the docket containing the papers relating to the case of which it is a record.

(8) The Court may receive oral evidence from a source within and outside Zambia via audio visual technology and such evidence shall be recorded in the same manner as if the witness was physically present in Court.

(9) Every record of evidence made by means of recording apparatus, together with any notes thereon, made by a recording apparatus operator shall be filed in accordance with directions given by the Registrar.

(10) The proceedings of the sittings of the Court may be kept in electronic form.

(11) Any person may conduct a search on a case record manually or electronically, upon payment of the prescribed fee.;

(b) by the deletion of rule 4 and the substitution thereof of the following:

4. (1) A transcript of the record of proceedings made in shorthand or by means of a recording apparatus shall be certified by the Court and made available to the parties upon payment of a prescribed fee.

Transcript  
of record of  
proceedings

(2) Every transcribed record of proceedings shall be certified by the Court and shall be deemed to be a true and correct record of the proceedings and shall constitute part of the record of the Court.;

(c) in rule 5, by the insertion, immediately after the words “in either case” of a comma and the words “in electronic form or hard copy,”; and

(d) in sub-rule (2) of rule 6, by the deletion immediately after the words “approved by the” of the words “presiding Judge or Registrar” and the substitution therefor of the words “Chief Administrator”.

Amendment of Order LIII 8. The principal Rules are amended by the deletion of Order LIII and the substitution therefor of the following:

ORDER LIII  
COMMERCIAL ACTIONS

Interpretation 1. In this Order, unless the context otherwise requires—

“ commercial action ” means any cause arising out of any transaction relating to commerce, trade, industry or any action of a business nature;

“ Commercial List ” means a list of commercial cases that are determined by a court using the prescribed procedure applicable to commercial actions;

“ Committee ” means the Commercial List Committee established under rule 12;

“ Court ” means a High Court Judge or Deputy Registrar dedicated to the commercial list and designated by the Chief Justice under rule 4;

“ Registrar ” means the person designated as Registrar of the Commercial List; and

“ Registry ” means the Commercial List Registry established under rule 3.

(2) In these Rules, reference to an application shall, where appropriate, apply to cause, matter or action, as the case may be.

Commercial List 2. (1) There shall be a Commercial List in which commercial actions in the Court shall be entered in accordance with these Rules.

(2) Every commercial action shall be prosecuted in accordance with these Rules.

(3) If there is any inconsistency between these Rules and the rules applicable to the general list in relation to commercial actions, these Rules shall, to the extent of the inconsistency, prevail in commercial actions.

3. (1) There shall be a Commercial List Registry which shall be administered by an officer designated as Registrar of the Commercial List.

Commercial  
List  
Registry

(2) The Registrar shall administer the day-to-day affairs of the Commercial List and superintend over the Deputy Registrar and Assistant Registrar of the Commercial List.

4. The Chief Justice shall designate a Judge-in-Charge of the Commercial List and such other Judges as the Chief Justice may determine.

Appointment  
of Judges to  
Commercial  
List

5. A commercial action shall be commenced and filed in the Registry.

Commence-  
ment of  
action

6. (1) A statement of claim or counter-claim, as the case may be, shall state in clear terms the material facts upon which a party relies and shall show a clear cause of action, failing which the statement of claim or counterclaim may be struck out or set aside or the action dismissed by the Court, on its own motion or on application by a party.

Pleadings

(2) The defence shall specifically traverse every allegation of fact made in the statement of claim or counter-claim, as the case may be.

(3) A general or bare denial of allegations of fact or a general statement of non admission of the allegations of fact shall not be a traverse thereof.

(4) A defence that fails to meet the requirements of this rule shall be deemed to have admitted the allegations not specifically traversed.

(5) Where a defence fails under sub-rule (4), the plaintiff or defendant, or the court on its own motion, may in an appropriate case, enter judgement on admission.

7. (1) A Judge shall, within fourteen days of the filing of the memorandum of appearance and defence, summon parties to a scheduling conference at which the Judge shall issue directions for trial which shall be adhered to strictly.

Scheduling  
conference  
and other  
conferences

