

## **RGN No. 450 of 1975**

### **HIGH COURT (MISCELLANEOUS APPEALS AND REVIEWS) RULES, 1975**

*RGN 450/1975. SI 13/1992.*

**IT is hereby notified that the President has, in terms of subsection (5) of section 51 of the High Court Act, 1964, approved the following rules of court made by the Chief Justice and a judge of the General Division in terms of that section:—**

#### ***1. Title and date of commencement***

- (1) These rules may be cited as the High Court (Miscellaneous Appeals and Reviews) Rules, 1975.  
[Rule amended by s.i 13 of 1992]
- (2) These rules shall come into operation on the 1st July, 1975.

#### ***2. Application***

- (1) Subject to the provisions of subrule (2), these rules shall apply to any appeal to or any review by a judge or the court which is provided for in any enactment having the force of law in Zimbabwe.
- (2) These rules shall not apply to—
  - (a) a review in terms of the Act; or
  - (b) an automatic review of any other review not at the instance of an aggrieved person or party to the proceedings;
  - (c) an appeal or review in relation to which the enactment concerned itself expressly—
    - (i) prescribes that it shall be by notice of motion or other special procedure; or
    - (ii) provides for the making of rules or regulations governing procedure;
  - (d) an appeal or review in relation to which special rules made in terms of paragraph (o1) of the Act are in force;
  - (e) an appeal or review specified in the Schedule.
- (3) In relation to an appeal or review to which these rules apply, the provisions of these rules shall be read subject to those provisions of the enactment concerned which prescribe aspects of the procedure for the appeal or review, as the case may be, but shall be applied to the fullest extent consistent therewith.

#### ***3. Interpretation of terms***

In these rules—

“court” means the High Court;

[Definition amended by s.i 13 of 1992]

“judge” means a judge of the court;

“notice” means a notice instituting an appeal or review as the case may be;

“registrar” means—

- (a) the registrar of the court; or
- (b) any deputy or assistant registrar designated and acting as a registrar of the court;

“tribunal” means any court, tribunal, council, board or other body against whose decision an appeal lies to, or whose proceedings may be reviewed by a judge or the court.

#### ***3A. Reckoning of time***

Where anything is required by these rules to be done within a particular number of days or hours, a Saturday, Sunday or public holiday shall not be reckoned as part of that period.

[Rule inserted by s.i 35 of 1992]

#### ***4. Notice of appeal or review***

- (1) An appeal or review shall be instituted by means of a notice directed and delivered by the appellant to the presiding officer of the tribunal or the officer whose decision or proceedings are in question, and to all other parties affected.
- (2) A notice shall also be filed with the registrar.

#### ***5. Time within which notice to be given***

Subject to the provisions of rule 6, a notice shall be delivered and filed in accordance with the provisions of rule 4 within fifteen days of the decision appealed against being given or the termination of the proceedings sought to be reviewed.

[Rule amended by s.i 13 of 1992]

### **6. Condonation of late noting of appeal**

Save where it is expressly or by necessary implication prohibited by the enactment concerned, a judge may, if special circumstances are shown, extend the time laid down, whether by rule 5 or by the enactment concerned, for instituting an appeal or review.

### **7. Contents of notice of appeal**

- (1) A notice instituting an appeal shall state—
  - (a) the tribunal or officer whose decision is appealed against; and
  - (b) the date on which the decision was given; and
  - (c) the grounds of appeal; and
  - (d) the exact nature of the relief sought; and
  - (e) the address of the appellant or his legal representative.
- (2) A notice instituting a review shall state—
  - (a) the tribunal or officer whose proceedings are brought on review; and
  - (b) the date on which the proceedings terminated; and
  - (c) the grounds of review;; and
  - (d) the exact nature of the relief sought; and
  - (e) the address of the appellant or his legal representative.

### **8. Reply**

(1) The tribunal or officer concerned or any other person affected thereby shall be entitled to file a reply to a notice instituting a review.

(2) A reply to a notice instituting a review shall be filed with the registrar and delivered to the other parties affected within ten days of receipt of the notice.

[Rule amended by s.i 13 of 1992]

### **9. Record**

- (1) Within fifteen days of receipt of a notice, the tribunal or officer concerned shall—
  - (a) if a formal record of the proceedings was kept, lodge it with the registrar;
  - (b) if no formal record of the proceedings was kept, lodge with the registrar reasons for the decision concerned, together with all papers relating to the matter in issue.

[Rule amended by s.i 13 of 1992]

(2) Where a formal record is lodged, the provisions of Order 33, rule 260 of High Court of Zimbabwe Rules, 1971, shall, *mutatis mutandis*, apply.

(3) Where no formal record is lodged, the registrar may require to be submitted such additional copies of the papers as he deems necessary.

### **9A. Heads of argument in appeals**

(1) The registrar shall send written notification to the parties as soon as he has received the record or other papers relating to an appeal or review and, in the case of an appeal or review in which the appellant will be legally represented at the hearing, the Registrar shall call upon the legal practitioner representing the appellant or applicant, as the case may be, to file heads of argument within fifteen days after the date of such notification.

(2) Within fifteen days after being called upon to file heads of argument in terms of subrule (1), or within such longer period as a judge may for good cause allow, the legal practitioner representing the appellant or the applicant, as the case may be, shall file with the Registrar a document setting out the main heads of his argument together with a list of authorities to be cited in support of each head, and immediately thereafter shall deliver a copy to the respondent.

(3) Where the respondent will be represented by a legal practitioner at the hearing of the appeal or review, that legal practitioner shall, within ten days after receiving the heads of argument in terms of subrule (2), file with the Registrar a document setting out the main heads of his argument together with a list of authorities to be cited in support of each head, and immediately thereafter shall deliver a copy to the appellant or applicant as the case may be:

Provided that, where the appeal is set down for hearing less than fifteen days after the respondent receives the appellant's or applicant's heads of argument, the respondent shall file his heads of argument as soon as possible and in any event not later than four days before the hearing of the appeal or review.

(4) If the registrar does not receive heads of argument from the appellant's or applicant's legal practitioner within the period prescribed in subrule (2), the appeal or review shall be regarded as abandoned and shall be deemed to have been dismissed.

[Rule inserted by s.i 13 of 1992]

### **10. Hearing of appeal or review**

(1) Where the enactment concerned provides that the appeal or review, as the case may be, may be dealt with by a judge, the registrar, after receipt of all the papers relating thereto, shall forthwith lay them before a judge in chambers.

(2) Where—

(a) a judge has directed that an appeal or review referred to in subrule (1) shall be—

(i) set down for oral argument in chambers; or

(ii) dealt with by the court; or

(b) the enactment concerned provides that the appeal or review shall be dealt with by the court; the registrar shall, subject to subrule (3) and to rule 9A, notify the parties of the date of set-down:

Provided that, unless the parties agree otherwise, at least six week's notice of the date of set-down shall be given to all parties to the appeal or review.

[Rule amended by s.i 15 of 1992]

(3) The registrar may send a legal practitioner representing any party to an appeal or review, other than an appeal to which rule 9A applies, a written notice requiring him to file with the registrar, not later than four days before the hearing of the appeal or review, a document setting out the main heads of his argument together with a list of authorities to be cited in support of each head, and the legal practitioner concerned shall comply with any such requirement:

Provided that the Registrar shall give the legal practitioner not less than five days' notice of any such requirement.

Subrule inserted by s.i 13 of 1992]

### **SCHEDULE (Rule 2(2)(e))**

#### APPEALS AND REVIEWS TO WHICH THESE RULES ARE NOT APPLICABLE

1 An appeal relating to bail in terms of section 112 of the Criminal Procedure and Evidence Act [Chapter 59].

2. An appeal relating to bail in terms of section 16 of the Extradition of Offenders (Republic of South Africa Act [Chapter 61].