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THE MAGISTRATES' COURTS ACT,

(CAP. 11)

RULES

(Made under section 71(1))

THE MAGISTRATES' COURTS (SMALL CLAIMS PROCEDURE) RULES, 2023

ARRANGEMENT OF RULES

PART I

PRELIMINARY PROVISIONS

<i>Section</i>	<i>Title</i>
1.	Citation.
2.	Application.
3.	Administration of Rules.
4.	Interpretation.

PART II

PRESENTATION OF STATEMENT OF CLAIM AND REPLIES

5.	Presentation of statement of claim.
6.	Rejection of statement of claim.
7.	Assignment of claim.
8.	Service of statement of claim.
9.	Failure to serve statement of claim.

10. Reply to statement of claim.
11. Reply to counterclaim.
12. Failure to file a reply to statement of claim.
13. Settlement of claims.

PART III
HEARING

14. Appearance and consequences of non-appearance.
15. Setting aside ex-parte judgment and dismissal order.
16. Hearing of claim.
17. Prohibition of adjournments.

PART IV
JUDGMENT AND EXECUTION OF DECREE

18. Judgments and decrees.
19. Costs.
20. Execution of decrees.

PART V
APPEALS AND REVISIONS

21. Procedures for appeals and revisions.

PART VI
MISCELLANEOUS PROVISIONS

22. Mode of applications.
23. Fees.

THE MAGISTRATES' COURTS ACT,

(CAP. 11)

RULES

(Made under section 71(1))

THE MAGISTRATES' COURTS (SMALL CLAIMS PROCEDURE) RULES, 2022

- Citation 1. These Rules may be cited as the Magistrates' Courts (Small Claims Procedure) Rules, 2022.
- Application 2. These Rules shall apply to the court when dealing with small claims in proceedings of civil nature except-
- (a) claims against the government; and
 - (b) claims arising from land, labour, probate and administration of estates, matrimonial disputes and other proceedings for which the procedure is specifically prescribed by any other written law.
- Administration of Rules 3. In administering these Rules, the court shall strive to-
- (a) implement a simple, speedy and affordable determination of disputes in small claims; and
 - (b) determine such claims according to substantial justice without regard to technicalities.
- Interpretation 4. In these Rules, unless the context otherwise requires-
- Cap. 11 "Act" means the Magistrates' Courts Act;
"claimant" means a person who lodges a small claim in the court and includes any person who becomes a party to the proceedings in a small claim in the capacity of a claimant;

“court” means a court of resident magistrate or a district court;

“High Court” means the High Court of the United Republic of Tanzania;

“magistrate in-charge” means a magistrate in charge of the court;

“respondent” means a party against whom the claimant has instituted a small claim;

“small claim” means a claim of a civil nature the value of which does not exceed one hundred million shillings but does not fall within the pecuniary jurisdiction of the primary court.

PART II

INSTITUTION OF A SMALL CLAIM AND REPLIES

Presentation of statement of claim

GN. 248 of 2018

5.-(1) A claim shall be instituted electronically in accordance with the Judicature and Application of Laws (Electronic Filing) Rules, 2018 by presenting a statement of claim substantially in Form A set out under the schedule to these Rules.

(2) Every statement of claim shall include the whole of the claim which the claimant is entitled to make in respect of the cause of action but a claimant may omit or relinquish any portion of his claim in order to bring the claim within the meaning of small claim under these Rules.

(3) Where a claimant omits to claim in respect of, or intentionally relinquishes, any portion of his claim, he shall not afterwards claim in respect of the portion so omitted or relinquished.

Rejection of statement of claim

6. The statement of claim shall be rejected where-

(a) it does not disclose a cause of action; or

(b) the claim appears to be barred by any law:

Provided that, where the court is satisfied that if the claimant is permitted to amend the statement of claim, it will disclose a cause of action or the claim will cease to be barred by any law, it may allow the claimant to amend the statement of claim subject to such

conditions as the court may deem fit to impose.

Assignment of claim

7. A magistrate in-charge of the court or magistrate acting in that capacity shall, within twenty-four hours after filing the claim, assign it to a magistrate for trial.

Service of statement of claim

8.-(1) The claimant shall, within seven days of filing a statement of claim, serve a copy thereof to the respondent by-

- (a) a registered mail or electronically;
- (b) delivering it to the respondent personally; or
- (c) leaving it at the respondent's dwelling house or usual place of residence or business.

(2) The statement of claim served on the respondent under subrule (1). of this rule, shall be accompanied by a notice which is substantially in Form B set out under the schedule to these Rules.

(3) For the purposes of subrule (1), an electronic delivery status report or affidavit of service which is substantially in Form C set out under the Schedule to these Rules shall be deemed to be sufficient proof of service.

Failure to serve statement of claim

9. Where the claimant fails to serve a statement of claim under rule 8, the claim shall be deemed to have been abandoned and it shall be struck out.

Reply to statement of claim

10.-(1) Upon receipt of the statement of claim, the respondent shall, within fourteen days, file and serve the claimant with a copy of a reply to the claim substantially in Form D set out under the schedule to these Rules.

(2) Notwithstanding the provisions of subrule (1), the respondent may-

- (a) settle the amount claimed in full by making payment directly to the claimant or by depositing the amount claimed in court;
- (b) admit the whole or part of the amount claimed with a proposal on the mode of payment on such terms as the parties may

agree and filing an agreement on the proposal;

- (c) deny the whole or part of the claim
- (d) raise a counterclaim; or
- (e) apply to join a third party.

Reply to counterclaim

11.-(1) A respondent who is served with a reply to the statement of claim and counterclaim may take one or more of the following actions-

- (a) settle the amount in the counterclaim in full by making payment directly to the respondent or by depositing the amount counterclaimed in court;
- (b) admit the whole or part of the amount counterclaimed with a proposal on the mode of payment on such terms as the parties may agree and filing an agreement; or
- (c) deny the whole or part of the counterclaim.

(2) A claimant who has taken any of the actions specified in subrule (1) (c) shall, within seven days from the date of receipt of services, reply to the counterclaim substantially as inform set out in the Schedule to the Rules

Failure to file reply to statement of claim

12.-(1) Where the respondent fails to file a reply within the prescribed time the court shall make an order to proceed with the claim *ex-parte*.

(2) Notwithstanding the provisions of subrule (1) the court may, within fourteen days of the *ex-parte* order and upon the respondent showing good cause, set aside the *ex-parte* order.

Settlement of claims

13.-(1) Parties may agree to settle the claim at any time before judgment.

(2) The settlement of claim shall be in writing and signed by the parties.

(3) The agreement for the settlement of the claim shall be filed in court and, upon approval by the court, the court shall cause such agreement to be recorded, and shall pass a decree in accordance therewith so far as it

relates to the claim.

(4) Without prejudice to the provisions of sub-rules (1), (2) and (3) of this rule, where the parties agree in court orally to settle their dispute amicably, the court shall record such agreement and cause it to be signed by the parties.

PART III HEARING

Appearance and consequences of non-appearance

14-(1) Appearance of parties may be by the party in person, recognised agent or an advocate duly appointed to act on that behalf or, where the Attorney-General is a party, by a public officer duly authorised by him in that behalf.

(2) Where the claimant does not appear on the date fixed for hearing, the court may dismiss the claim unless it see fit to adjourn the hearing.

(3) Where the respondent does not appear on the date fixed for hearing the court may, on proof of service, proceed *ex-parte*.

(4) Where neither party appears, the court shall dismiss the claim.

Setting aside *ex-parte* judgment and dismissal order

15.-(1) Where a claim has been dismissed under rule 14(2) or an *ex-parte* judgment entered under rule 14(3), the aggrieved party may within fourteen days of the order or judgment apply to the court to set aside the dismissal order or *ex-parte* judgment.

(2) The court may, upon the applicant showing good cause, set aside the dismissal order or *ex-parte* judgment.

Hearing of claim

16.-(1) A claim duly instituted under these Rules shall be heard and determined within five months from the date of its institution:

Provided that, the court may, in exceptional circumstances, extend the time for not more than thirty days.

(2) The procedure for conducting hearing and questioning of witnesses shall be informal with the sole objective of timely dispensation of substantial justice.

(3) Where both parties are in attendance, the claimant shall open his case and call witnesses, if any, who may be examined by the parties.

(4) At the closure of the claimant's case, the respondent shall present a reply, counterclaim and set-off, if any, and may call witnesses who may be examined by the parties.

(5) The court may issue summons to appear to any witness and shall have power to compel attendance of witnesses.

(6) Evidence shall be given orally, under oath or affirmation, or by affidavit of witnesses:

Provided that, a witness who gives evidence by affidavit may be summoned for cross examination at the instance of the court or the opposite party.

(7) Except with the leave of the court, no party shall address the court after the closure of hearing.

Prohibition of adjournments

17. When hearing has begun, all the witness in attendance shall be examined, unless, for reasons to be recorded, the court finds it necessary to adjourn the hearing.

PART IV

JUDGMENTS AND EXECUTION OF DECREES

Judgments and decrees

18. After the case is heard, the court shall, within thirty days render judgment and a decree of such case.

Costs
Cap. 33

19. Issuance of orders for costs of and incidental to claims under these Rules shall be regulated by the Civil Procedure Code.

Execution of decrees
Cap. 33

20. A decree issued under these Rules shall be executed in the manner provided for in the Civil Procedure Code.

PART V
APPEALS AND REVISIONS

Procedure for
appeals and
revisions

21.-(1) Any party aggrieved by an order or decision of the court under these Rules may appeal to the High Court.

Cap. 11

(2) The provisions of the Magistrates' Courts Act and the Civil Procedure Code relating appeals and revisions on proceedings originating from the court of the resident magistrate and district court shall apply to appeals and revisions under these Rules.

Cap. 33

PART VI
MISCELLANEOUS PROVISIONS

Mode of
applications

22.-(1) Every application to the court under these Rules shall be made orally in court in the presence of the parties, heard and determined on the same day, save that the court may, where justice so demands, allow an application to be made in writing by way of a chamber summons supported by an affidavit.

(2) Notwithstanding the provisions of subrule (1), applications under rules 12 and 15 of these Rules shall be in writing by way of a chamber summons supported by an affidavit.

Fees

23. The provisions of the Court Fees Rules, 2018 shall apply to fees payable under these Rules.

GN. 247 of 2018

SCHEDULE

(Made under rules 5(1), 8(2) and 3, 10(1) and 11(2))

THE UNITED REPUBLIC OF TANZANIA
JUDICIARY

IN THE COURT OF RESIDENT MAGISTRATE/DISTRICT COURT
OFAT.....

SMALL CLAIM CASE NO.....OF.....

..... CLAIMANT(S)

VERSUS

.....RESPONDENT(S)

STATEMENT OF CLAIM

(Made under rule 5(1), 8(2), 10(1) and 11(2))

- 1. Name in fullClaimant*
Legal status of the claimant (tick whichever is appropriate)
Natural person sole proprietorship partnership company co-operative society
Government others (specify)
Residential address
Business and postal address
Post code
Phone number
Email address
and
2. Name in fullRespondent*
Legal status of the respondent (tick whichever is appropriate)
Natural person sole Proprietorship partnership company co-operative society
Government others (specify)
Residential address
Post code
Phone number
Business and postal address
Email address

*In case of multiple claimants or respondents, give the details of each claimant or respondent.

- 3. Nature of the claim and cause of action (tick whichever is appropriate)

Magistrates' Courts (Small Claims Procedure)

GN. No. 159 (Contd)

- Recovery of civil debts
 -
 - Interests due to the Government under any judgment and written law
 - Recovery of any civil debt arising out of contract
 - Any other cause of action (*briefly specify*)
 -
- 4. Date of cause of action:.....
- 5. Briefly explain the circumstances under which the claim arose and attach documents in support of your claim (*if any*).
.....
.....
.....
.....
.....
- 6. Reliefs sought; (*tick whichever is appropriate*)
 - Judgement in the sum of Tshs
 - Compensation
 - Costs of the claim (*to be assessed by the court*)
 - Other appropriate reliefs (*briefly explain*)
 -
- 7. Fill this part if the amount claimed exceeds the amount of the small claim.
By filing this claim, I (the claimant) hereby abandon and forfeit the recovery of all sums in excess of Tshs, excluding costs and interest.

.....
signature of claimant

VERIFICATION

I verify that the information given above is true.

.....
signature of the claimant

Verified at.....(*place*) this day.....of.....20.....

.....
signature of the claimant

Presented for filing this.....day of.....20.....

signed
registry officer

THE UNITED REPUBLIC OF TANZANIA
JUDICIARY

IN THE COURT OF RESIDENT MAGISTRATE/DISTRICT COURT
OFAT.....

SMALL CLAIM CASE NO.....OF.....

..... CLAIMANT(S)

VERSUS

.....RESPONDENT(S)

NOTICE TO RESPONDENT(S)

(Made under rule 8(2))

To:.....

WHEREAS the above-named claimant has instituted a claim against you the particulars of which are set out in the annexed copy of the statement of claim;

YOU ARE HEREBY NOTIFIED that you must file your reply to the statement of claim in duplicate within fourteen days of service of this notice upon you. Where there are more than one claimant, additional copies of your reply to the statement of claim must be filed sufficient for service on each of the claimants. If there are more than one respondent and the reply to the statement of claim has not been made jointly, you must file sufficient copies for service on each of the other respondents.

AND TAKE NOTICE that if you default in filing the reply to the statement of claim within the time specified, the court may proceed *ex-parte* and pronounce judgment against you.

TAKE FURTHER NOTICE that the case has been fixed for orders before Hon.....
.....magistrate on the.....day of....., 20.... at
..... o'clock in the forenoon/afternoon.

GIVEN UNDER MY HAND AND SEAL OF THE COURT this..... day of....., 20.....

.....
magistrate
(Court seal stamp)

ACKNOWLEDGMENT OF SERVICE OF STATEMENT OF CLAIM

I hereby acknowledge receipt of a duplicate of this notice this
.....day of....., 20.....

.....
respondent

THE UNITED REPUBLIC OF TANZANIA
JUDICIARY

IN THE COURT OF RESIDENT MAGISTRATE/DISTRICT COURT
OFAT.....

SMALL CLAIM CASE NO.....OF.....

..... CLAIMANT(S)

VERSUS

.....RESPONDENT(S)

AFFIDAVIT OF SERVICE OF A STATEMENT OF CLAIM

(Made under rule 8(3))

I, do make oath/affirm and state as follows:-

(1) I am.....(position)

(2) On the..... day of..... 20, I received a notice issued by this court ofatin small claim No..... of in *this/said court dated the..... day of 20.... for service on

(3) The said is known to me personally /identified to me by who is known to me personally and I served the said notice on him/her on the day of..... 20 ... at about o clock in the *forenoon/afternoon by tendering a copy thereof to him/her and requiring his/her signature to the original notice or *the said..... refused to sign the process in the presence of or

*(state any other reason why service could not be effected)

Sworn/affirmed by the said..... who is known to me personally or who has been identified to me by the latter being known to me personally this.....day of..... 20.....

.....
Commissioner for Oaths

*(Delete whichever is not applicable)

THE UNITED REPUBLIC OF TANZANIA

JUDICIARY

IN THE COURT OF RESIDENT MAGISTRATE/DISTRICT COURT
OFAT.....

SMALL CLAIM CASE NO.....OF.....

..... CLAIMANT(S)
VERSUS
.....RESPONDENT(S)

REPLY TO THE STATEMENT OF CLAIM

(Made under rule 10(1))

- 1. Name in fullrespondent
Legal status of the respondent (tick whichever is appropriate)
Natural person sole proprietorship Partnership company co-operative Society Government Others (specify)

Residential address.....
Post code.....
Phone number.....
Business and postal address.....
Email address.....

- 2. Reply to the statement of claim
In reply to the statement of claim dated the day of..... 20....., the respondent states as follows:
(tick whichever is appropriate)

- The respondent does not owe the claimant any money
The respondent owes the claimant a sum of Tshs..... only out of the amount claimed in the statement of claim
The respondent admits the whole of the claim
The respondent has paid to the claimant all the sum claimed in the statement of claim
It is the claimant who owes the respondent a sum of Tshs.on account of.....(explain the basis on which the claimant owes the amount stated)

The respondent denies the claim for the following reasons (explain briefly, in case the claim is denied).....

- 3. Counterclaim
Without prejudice to the respondent's reply in paragraph three, the respondent counterclaims against the claimant the sum of tshs.....on account of.....
(State the amount of counterclaim and the grounds on which the counterclaim is based)

- 4. Set-off
While admitting the claimant's claim in the sum of tshs....., the

Magistrates' Courts (Small Claims Procedure)

GN. NO. 159 (Contd)

respondent states they are entitled to a set-off in the sum of Tshs.....on account of.....
(State the amount sought to be set-off and the reasons for the set-off)

5. Reliefs sought

The respondent requests the court to *(tick whichever is appropriate)*

- Dismiss the claim with costs.
- Enter Judgment in favour of the respondent against the claimant in the sum of Tshs.
- Enter judgment in favour of the respondent against the claimant on the counterclaim or set-off in the sum of Tshs.....

VERIFICATION

I verify that the information given above is true.

.....
signature of the respondent

Verified at.....*(place)* this day of....., 20....

.....
signature of the respondent

Presented for filing this.....day of.....,20....

Signed
registry officer

**(Delete whichever is inapplicable)*

ACKNOWLEDGMENT OF SERVICE

I hereby acknowledge receipt of a duplicate of this notice thisday of....., 20....

.....
Claimant

THE UNITED REPUBLIC OF TANZANIA
JUDICIARY

IN THE COURT OF RESIDENT MAGISTRATE/DISTRICT COURT

OFAT.....

SMALL CLAIM CASE No.....OF.....

..... CLAIMANT(S)

VERSUS

.....RESPONDENT(S)

REPLY TO THE COUNTERCLAIM

(Made under rule 11)

1. In reply to the counterclaim dated the day of..... 20....., the respondent states as follows: (tick whichever is appropriate)

- checkbox The claimant does not owe the respondent any money
checkbox The claimant owes the respondent a sum of Tshs..... only out of the amount claimed in the counterclaim
checkbox The claimant admits the whole of the claim
checkbox The claimant has paid to the respondent all the sum claimed in the counterclaim.
checkbox It is the respondent who owes the claimant a sum of Tshs.

.....on
account of.....(explain the basis on which the Respondent owes the amount stated)

- checkbox The claimant denies the counterclaim for the following reasons (explain briefly, in case the claim is denied).....

2. Prayers

The claimant prays to the court to (tick whichever is appropriate)

- checkbox Dismiss the counterclaim / set-off with costs.
checkbox Enter judgment in favour of the claimant against the respondent in the sum of Tshs.

- checkbox Enter judgment in favour of the claimant against the respondent on the statement of claim in the sum of Tshs.....

VERIFICATION

I verify that the information given above is true.

.....

signature of the claimant

Verified at.....(Place) this day.....of.....20.....

signature of the claimant

Presented for filing this.....day of.....20.....

Signed

registry officer

ACKNOWLEDGMENT OF SERVICE

I hereby acknowledge receipt of a duplicate of this notice
thisday of....., 20.....

.....
Respondent

Dar es Salaam,
27th February, 2023

IBRAHIM HAMIS JUMA,
Chief Justice