

THE UNITED REPUBLIC OF TANZANIA

*Supplement No. 39*

*4<sup>th</sup> October, 2024*

**SUBSIDIARY LEGISLATION**

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THE JUDICATURE AND APPLICATION OF LAWS ACT,  
(CAP. 358)

**RULES**

*(Made under section 4)*

THE JUDICATURE AND APPLICATION OF LAWS (APPOINTMENT, REMUNERATION AND  
DISCIPLINARY OF MEDIATORS) RULES, 2024

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PART I  
PRELIMINARY PROVISIONS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Citation              | 1. These Rules may be cited as the Judicature and Application of Laws (Appointment, Remuneration and Disciplinary of Mediators) Rules, 2024.                                                                                                                                                                                                                                                                                                                                              |
| Application           | 2. These Rules shall apply to mediators conducting court annexed mediation or appointed as such.                                                                                                                                                                                                                                                                                                                                                                                          |
| Interpretation        | 3. In these Rules, unless the context requires otherwise-<br>“Judge in-charge” means the Judge in charge of the High Court Registry, Sub-Registry or Divisions;<br>“Code” means the Code of Conduct and Practice for Reconciliators, Negotiators, Mediators and Arbitrators, Regulations;<br>“professional misconduct” means any act or omission amounting to breach of the Code; and<br>“court annexed mediation” means mediation referred under Order VIII of the Civil Procedure Code. |
| GN. No<br>148 of 2021 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Cap. 33               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

PART II  
APPOINTMENT OF MEDIATORS

|                             |                                                                                                           |
|-----------------------------|-----------------------------------------------------------------------------------------------------------|
| Application<br>of this Part | 4. The provisions of this Part shall apply to mediators other than serving and retired judicial officers. |
|-----------------------------|-----------------------------------------------------------------------------------------------------------|

Qualifications  
for  
appointment  
as mediator  
GN. No.  
147 of 2021

**5.** A person shall be eligible for appointment as a mediator under these Rules if that person is accredited as a reconciliator, negotiator, mediator or arbitrator under the Reconciliation, Negotiation, Mediation and Arbitration (Practitioners Accreditation) Regulations.

Appointment  
process

**6.-(1)** A person who intends to be appointed a mediator shall apply to the Chief Justice for appointment.

GN. No.  
147 of 2021

(2) An application under this rule shall be in Form prescribed in the First Schedule and accompanied by a certificate of accreditation issued under the Reconciliation, Negotiation, Mediation and Arbitration (Practitioners Accreditation) Regulations.

Determination  
of application

**7.** Upon receipt of the application, the Chief Justice shall, within thirty days from the date of receipt of the application-

- (a) if satisfied that the applicant is eligible for appointment, grant the application and notify the applicant in writing on the appointment; or
- (b) if not satisfied with the application-
  - (i) require the applicant to furnish further particulars for his consideration; or
  - (ii) refuse the application and notify the applicant in writing of the refusal and reasons thereof.

Register of  
mediators

**8.** The Registrar of the High Court shall keep and maintain a register of mediators appointed under these Rules.

### **PART III REMUNERATION**

Application  
of this Part  
Cap. 33

**9.** The provisions of this Part shall apply to all mediators other than a mediator chosen by the parties under Order VIII rule 25(6)(f) of the Civil Procedure Code.

Mediators'  
remuneration

**10.-(1)** Subject to the provisions of this Part, the

mediator shall be entitled to be paid service fee for each mediated case as set out in the Second Schedule.

(2) Without prejudice to subrule (1), where it is necessary for the mediator to travel, he shall be entitled to travelling and subsistence allowances as set out in the Second Schedule:

Provided that, where a mediator is a serving judicial officer, expenses under this rule shall be payable in accordance with his terms of service.

Liability to  
pay mediators

**11.** Remunerations, expenses and costs payable to the mediator under these Rules shall be borne by the Judiciary.

#### PART IV CODE OF CONDUCT AND DISCIPLINARY MEASURES

Application  
and  
enforcement  
of  
Code

**12.-(1)** The Code shall apply *mutatis mutandis* to mediators under these Rules.

(2) The Judge in-charge shall enforce the Code for the purpose of controlling the discipline of mediators.

(3) A mediator who breaches the Code commits a professional misconduct.

Sanction for  
breach of  
Code

**13.** A mediator who commits a professional misconduct shall-

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(a) in case of a serving judicial officer, be liable to such disciplinary action as prescribed for under the Judiciary Administration Act; or

(b) in any other case, be liable to such disciplinary action as may be imposed pursuant to these Rules.

Complaints  
over  
misconduct

**14.-(1)** A person who is aggrieved by the conduct of a mediator and believes that the mediator has committed a professional misconduct may lodge a complaint to the Judge in charge against such misconduct.

(2) The complaint shall be in writing either in English or Kiswahili supported by any other document or information as proof of the alleged complaint.

(3) Nothing in these Rules shall be construed to

restrict the Judge in charge from commencing disciplinary proceedings *suo mottu*.

Scrutiny of  
complaint

**15.-(1)** The Judge in-charge shall, within seven days of receipt of a complaint, determine whether the complaint is tenable or frivolous and vexatious.

(2) Where the Judge in-charge is satisfied that a complaint is tenable, subject to the rights of the mediator to be heard, may impose the following sanctions against the mediator:

- (a) issue a written warning;
- (b) require him to pay such amount of money as may be adequate to cover the cost or loss incurred by the complainant as a result of the complaint;
- (c) recommend to the Chief Justice for mediator's suspension or revocation; or
- (d) any other action as the Judge in-charge may consider fit.

FIRST SCHEDULE

*(Made under rule 6(2))*

FORM MD

APPLICATION FOR APPOINTMENT AS MEDIATOR BY

..... APPLICANT

1. I.....of ..... (Address) states as follows:
2. That, your applicant is a citizen of the United Republic of Tanzania born on the.....
3. That, the applicant was accredited as mediator under the Reconciliation, Negotiation, Mediation and Arbitration (Practitioners Accreditation) Regulations, 2021 on the.....  
Copies of certificates of birth and accreditation are attached to this application.
4. That, the applicant's areas of experience as a mediator are in (Identify areas of expertise eg. Land, conveyancing, construction, labour, insurance, mining, oil and gas etc.):.....  
.....
5. The applicant prays that Your Lordship be pleased to appoint him to be a mediator under rule 6(1) of the Judicature and Application of Laws (Appointment, Remuneration and Disciplinary of Mediators) Rules, 2024.

DATED and SIGNED at.....this ..... day of .....

.....  
(APPLICANT)

*Judicature and Application of Laws (Appointment, Remuneration and  
Disciplinary of Mediators)*

*GN. NO.820 (Contd.)*

SECOND SCHEDULE

*(Made under rule 10)*

COSTS AND FEES

PART A:

PROFESSIONAL FEE

| SERVING JUDICIAL OFFICERS              |                | MEDIATORS OTHER THAN<br>SERVING JUDICIAL OFFICERS |
|----------------------------------------|----------------|---------------------------------------------------|
| Description                            | Fee            |                                                   |
| For each successful mediation.         | TZS. 500,000/= | TZS. 500,000/=                                    |
| For each partial successful mediation. | Non-Applicable | TZS. 300,000/=                                    |
| For each unsuccessful mediation.       | Non-Applicable | TZS. 200,000/=                                    |

PART B:

TRANSPORT AND SUBSISTENCE ALLOWANCE

| S/N | MEANS OF TRANSPORT           | CLASS                                                                                 |
|-----|------------------------------|---------------------------------------------------------------------------------------|
| 1   | Air                          | Economy Class                                                                         |
| 2   | Sea                          | First Class                                                                           |
| 3   | Train                        | First Class                                                                           |
| 4   | Road                         | Luxury Class                                                                          |
| 5   | In case of private transport | The mediator shall be entitled to mileage allowance at the applicable government rate |
| 6   | Subsistence allowance        | Not exceeding TZS 250,000/= per night                                                 |

Dodoma,  
26<sup>th</sup> September, 2024

IBRAHIM HAMIS JUMA,  
*Chief Justice*