

GOVERNMENT NOTICE NO. 108 published on 1/2/2019

THE MEDIA SERVICES ACT,
(ACT NO. 12 of 2016)

RULES

(Made under section 41(4))

THE MEDIA SERVICES (DEFAMATION PROCEEDINGS) RULES, 2019

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PART I
PRELIMINARY PROVISIONS

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|---|---|
| Citation | 1. These Rules may be cited as the Media Services (Defamation Proceedings) Rules, 2019. |
| Application | 2. These Rules shall apply to all proceedings under Part V of the Act for the purpose of facilitating timely and expeditious determination of cases. |
| Interpretation
Act No.
12 of 2016 | 3. In these Rules, unless the context otherwise requires-
“Act” means the Media Services Act;
“court” means the High Court, courts of a resident magistrate or district court;
“defamation action” has the same meaning as ascribed to it under section 35(1) of the Act;
“petition” means a written communication made or addressed to the court by which proceedings are instituted under rule 4 of these Rules;
“petitioner” means a person who institutes proceedings under these Rules;
“respondent” means the party against whom a petition is made, whether a natural or a legal person. |

PART II
DEFAMATION PROCEEDINGS

Institution of
proceedings

4.-(1) Legal proceedings under Part V of the Act shall be instituted by way of a petition in the Form DP set out in the Schedule.

Cap. 11
Cap. 33

(2) In accordance with section 41(3) of the Act, the provisions of the Magistrates' Courts Act and the Civil Procedure Code relating to pecuniary jurisdiction shall apply to proceedings under these Rules.

Service of
petition

5.-(1) The petitioner shall, within seven days after filing the petition, serve a copy of the petition on the respondent.

(2) The petitioner shall, within seven days after service, file in Court an affidavit stating the names, address of the place and date of service on all persons who have been served with the petition.

(3) Where service has not been effected, the petitioner shall, within seven days, file in the court an affidavit stating the fact and reasons why the service has not been effected to a person who ought to be served.

Cap. 33
Cap. 442

(4) For avoidance of any doubt, the mode of service under these Rule shall be in accordance with the Civil Procedure Code or the Electronic Transactions Act.

Reply to petition

6.-(1) The respondent shall, within twenty one days of service of the petition, file a reply to the petition.

(2) Where the respondent fails to file a reply to the petition within the time stipulated under subrule (1), unless the court extends time for filing a reply, it may hear and determine the petition *ex parte*.

Notice of
preliminary
objection

7. Where the respondent intends to challenge the court's jurisdiction to hear the petition, he shall file a notice of preliminary objection when filing a reply to the petition.

Consolidation of
petitions

8. The court may, upon application or on its own

Media Services (Defamation Proceedings)

GN. NO. 108 (Contd)

motion, consolidate petitions relating to the claim for defamation by or against several parties in respect of the same matter.

Determination
of competence
of petition

9. The court shall, within thirty days of completion of pleadings, hear and determine all preliminary matters of law relating to the petition.

Hearing of
petition

10.-(1) The petition shall be heard and determined within six months from the date of completion of preliminary matters:

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

(2) The court may, in its discretion or upon application by any party-

(a) receive evidence by affidavit in addition to or in substitution of oral evidence and may limit the time for oral submissions by the parties; or

(b) call, examine and allow the cross examination of any witness.

(3) A person summoned as a witness by the court may, with the leave of the court, be cross examined by the parties to the petition.

(4) At the end of hearing, the court may allow parties to make oral or written submissions.

Withdrawal

11. The petitioner may, at any time, with the leave of the court and upon such terms as the court may deem fit, withdraw the petition.

Settlement by
consent

12. The parties may, with the leave of the court, record an amicable settlement reached in partial or final determination of the case.

Costs

13. The award of costs shall be in the discretion of the court.

Matters not
provided for in

14. Where there is any matter not provided for in these

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these Rules
Cap.33 and
Cap. 6

Rules, the practice and procedure provided for under the Civil
Procedure Code and the Evidence Act shall apply.

SCHEDULE

FORM DP

(Made under rule 4(1))

IN THE

AT

PETITION NOOF 20.....

BETWEEN

.....PETITIONER

AND

.....RESPONDENT

PETITION

1. Name of the petitioner: ofin the District ofwithin the region
of..... whose address for service is; street.....wardP.O.
Box.....telephone numbers email addressfax
number.....
2. Name of the respondent: ofin the District ofwithin the region
of..... whose address for service is; street.....wardP.O.
Box.....phone number(s) email address fax number
(if any).....
3. Facts constituting the cause of action and particulars:
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GN. NO. 108 (Contd)

4. Facts showing that the court has jurisdiction:

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5. Reliefs claimed:

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Dated atthis.....day of.....20.....

.....
Petitioner

.....
Advocate (if any)

VERIFICATION

I,(name of Petitioner), hereby verify that the contents in paragraphs are true to the best of my knowledge and the contents in paragraphs..... are based on the information received from and which I believe to be true.

Verified at..... on this..... day of20.....

.....
Petitioner

Presented for filing this.....day of20.....

.....
Registry Officer

Dar es Salaam,
22nd January, 2019

IBRAHIM HAMIS JUMA
Chief Justice