

THE CO-OPERATIVE TRIBUNAL (PRACTICE AND PROCEDURE) RULES

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THE CO-OPERATIVE TRIBUNAL (PRACTICE AND PROCEDURE) RULES

[Legal Notice 59 of 2009]

1. Citation

These Rules may be cited as the Co-operative Tribunal (Practice and Procedure) Rules.

2. Interpretation

In these Rules, unless the context otherwise requires—

“chairman” means the chairman of the Co-operative Tribunal;

“Tribunal” means the Co-operative Tribunal established under the Act.

3. Saving of the inherent power of the Tribunal

Nothing contained in these Rules shall limit or otherwise affect the inherent power of the Tribunal to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Tribunal.

4. Disregard of technicalities

The Tribunal shall have power and discretion to decide all matters before it with due speed and dispatch without undue regard to technicalities of procedure.

5. Forms and fees

The Tribunal may prescribe such forms and fees as it may deem necessary, for purposes of these Rules.

6. Application of Civil Procedure Rules (Cap. 21 Sub. Leg.)

The provisions of the Civil Procedure Rules (Cap. 21, Sub. Leg.) shall apply in respect of the proceedings of the Tribunal.

7. Powers of chairman and deputy chairman

(1) The chairman or the deputy chairman shall have the power to give directions for—

- (a) furnishing of further particulars or supplementary statement;
- (b) filing and exchange of documents;
- (c) framing of issues,

and other directions as are necessary to enable the parties to prepare for the hearing or to assist the Tribunal to determine the issues.

(2) The chairman or the deputy chairman, in matters before the Tribunal, shall have the same power as is vested in the Registrar or Deputy Registrar where similar matters are before the High Court and shall exercise the power, *mutatis mutandis*, in accordance with the Civil Procedure Rules (Cap. 21, Sub. Leg.).

8. Appeals

(1) Every appeal to the Tribunal shall be in the form of a memorandum of appeal signed in the same manner as a pleading.

(2) The memorandum of appeal shall set forth concisely and under distinct heads the grounds of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively.

(3) At the time of filing the memorandum of appeal or before setting down the appeal for hearing, the Appellant shall file a record of appeal in five sets and serve all parties. The record of appeal, properly indexed and paginated, shall contain—

- (a) the memorandum of appeal;
- (b) the inquiry order;

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- (c) the inquiry and/or inspection report;
- (d) the minutes of the general meeting whose decision is appealed against;
- (e) the notice of intention to surcharge;
- (f) the surcharge order; and
- (g) any other relevant documents.

9. Statement of claim

A claim, other than an appeal under the Act, shall be instituted by way of a statement of claim signed by the claimant or his advocate or other duly authorized agent, setting out concisely the nature of the claim and the grounds upon which it is based, supported by a verifying affidavit signed by the claimant.

10. Service of statement of claim

(1) The statement of claim together with the verifying affidavit and summons to enter appearance shall be served on the respondent.

(2) The respondent shall file a memorandum of appearance within fifteen days of service with the documents stated under sub-rule (1) and a statement of defence within a further fifteen days.

11. Interlocutory applications

(1) All interlocutory applications made to the Tribunal shall be by Chamber Summons or Notice of Motion signed by the claimant, his advocate or a duly authorized agent, supported by an affidavit.

(2) A party served with a Chamber Summons or Notice of Motion may file a replying affidavit or grounds of opposition. However, any party who desires to be heard and appears to the Tribunal to be a proper party to be heard, may be heard, despite failure to file replying affidavit or grounds of opposition.

12. Mode of service

The mode of service shall, unless the Tribunal otherwise directs, be personal and in every case, an affidavit of service shall be filed as evidence of the service by an authorized process server.

13. List of documents

At the close of pleadings, every party to the claim shall within thirty days, or before setting down the suit for hearing, file with the Tribunal, five sets of all documents that the party intends to rely on and serve all the parties to the claim at least fourteen days before the hearing.

14. Setting down claim for hearing

The claimant may, at any time after close of pleadings, and upon giving reasonable notice to every respondent who has appeared, set the suit down for hearing.

15. Substitution and addition of parties

Subject to section 76 of the Act, the Tribunal shall have the discretion to add or strike out parties to the claim.

16. Hearing of claims

At the hearing, the evidence shall be in narrative form but the Tribunal shall be at liberty to take down questions and answers verbatim.

17. Setting aside judgement, order or award

A judgement, order or award made *ex parte* under this Rules may, on application, be set aside on such terms as may be just.

18. Costs

Subject to any provisions of any law for the time being in force, the Tribunal shall have the power to determine the party or person to bear costs, or out of which property and to what extent, the costs shall be paid:

Provided that the costs of any claim or issue shall follow the event unless the Tribunal shall for good reason otherwise order.

19. Interest

(1) Where and in so far as a decree is for the payment of money, the Tribunal may, in the decree, order interest at such rate as the tribunal deems reasonable to be paid on the principal sum adjudged from the date of filing the claim to the date of the decree, plus any interest accruing on the principal from the period before the institution of the suit, and on the aggregate sum so adjudged, such further interest from the date of the decree to the date of full payment or to such earlier date as the Tribunal thinks fit.

(2) Where such a decree is silent with respect to the payment of further interest on such aggregate sums as aforesaid from the date of the decree to the date of payment or other earlier date, the Tribunal shall be deemed to have ordered interest at the prevailing court rates.

20. Registers

The Tribunal shall cause to be prepared a register with regard to any disputes or appeals before the Tribunal containing the following particulars—

- (a) the names of the parties;
- (b) the serial number;
- (c) date of claim or appeal;
- (d) the relief sought; and
- (e) the final determination or order and the date thereof.

21. Principal registry

(1) The principal registry of the Tribunal shall be at Nairobi.

(2) There shall be provincial registries at Mombasa, Kisumu, Nakuru, Nyeri, Embu, Kakamega, Garissa and such other place as the Chairman in his discretion determine from time to time.

(3) The tribunal shall conduct sessions or hearings at the principal registry and any of the other registries.

22. Savings provisions

(1) All the proceedings pending before the Tribunal immediately before the commencement of these Rules may be continued and concluded as if they had been commenced under or by virtue of these Rules.

(2) Every decree, order or award of the Tribunal which immediately before the commencement of these Rules had not been executed or enforced shall be executed or enforced in the same manner as if it were a decree or order of the Tribunal made in accordance with these Rules.

23. Amendment of rules

These Rules may be amended from time to time as the Tribunal may direct.