

Adjudication of Civil Cases

Overview

Civil cases include;

- Disputes between individuals
- Dispute between companies.
- Dispute between company and individuals
- The High Court has unlimited Jurisdiction
- The Magistrate Court has a limited jurisdiction of BWP 60, 000.00

Who is eligible?

High Court (Claim exceeding BWP 60 000. 00)

- Individuals
- Businesses
- Other organizations

Magistrate Court (Claim not exceeding BWP 60 000. 00)

- Individuals
- Businesses
- Other organizations

How do I get this service?

- Commenced by a writ of summons, petition or notice of motion (collectively referred to as "originating process") signed by the Registrar / Clerk of court and date-stamped with the stamp of the Court.
 1. A writ of Summons shall be in **Writ of Summons (Form 2 for High Court or Form 7 for Magistrate)** in the first schedule with such variations as circumstances require High Court rules/ Magistrate Court Act.
 2. The Notice of Motion shall be in **Notice of Motion (Form 4 for High Court or Form 3 for Magistrate)** in the first schedule with such variations as circumstances require, and shall state the rule under which the application is brought.
- The Plaintiff, or the Plaintiff's attorney or agent shall bring the original, originating process documents and three(3) copies (or if there is more than one defendant, an extra copy for each additional defendant) to the Civil Registry at the High Court/ Magistrate court for date stamp, signing and filing.
- Serve the defendant(s) with copies of the originating process documents that have been signed and date stamped by the Registrar/ Clerk of Court and file proof of service at the Civil Registry.
- Service upon a person of a petition, notice, summons, order, pleading or other document of which service is required, may be made by any

adult person who has no interest in the cause and is able to explain its nature and contents.

- Except in the case of arrest; writs of summons, petitions, notices, summonses, orders, pleadings and other documents shall not be served on a Sunday or between 19:00. and 07:00 of any other day, and no such service shall be valid if made.

What supporting documents are required?

- Preparation of a Writ of Summons (Form 2 or Form 7) and annexations of documents supporting your claim.
- Preparation of a Petition or Notice of Motion (Form 4 or Form 3).

Parties to a case are required to submit:

- A writ of Summons shall be in Form 2 (High Court) or Form 7 (Magistrate) in the first schedule with such variations as circumstances require.
- The Notice of Motion shall be in Form 4 or Form 3 in the first schedule with such variations as circumstances require, and shall state the rule under which the application is brought. The applicant shall;
 1. Set forth the order sought;
 2. File an Affidavit of Service in support of the application (upon any motion, petition or other application, evidence shall be given by affidavit);
 3. File a draft of the order which he seeks
 4. Attach any substantiating documents if any

As per Order 6(12) of the High Court rules, the time within which a defendant shall be required to enter appearance to defend shall be reckoned as follows:

- An individual defendant where the defendant's dwelling house or other place of residence or place of business or employment is within the jurisdiction of any other originating process at the High Court Registry (either Gaborone, Lobatse or Francistown).
- company or corporation, its registered office or principal place of business within the jurisdiction is within a radius of 100 kilometers from the High Court Registry (either Gaborone, Lobatse or Francistown),
- The time limited for the defendant to enter an appearance shall be 14 Court days (Monday to Friday, except public holidays) after the service of the writ of summons or other processes (including the day of service) to the defendant.
- In an action against the government the an appearance to defend may be entered at any time within 21 days after service of the summons, unless otherwise specified.
- Generally, proceedings against a defendant are not deemed to have begun until they have been served with a writ of summons.

How long will this service take?

- Processing the documents constituting the originating process takes approximately two (2) court days.
- For individuals not represented by attorneys, they are processed while waiting and it can take less than one(1) court day.

How much does it cost?

High Court fees

- Writ of Summons, originating motion, petition or provisional sentence is BWP120 (Self Actor) and estimated amount of BWP220 for Civil Application
- Writ of summons BWP150 (Represented party) and P20 for Resolution if its company and estimated amount of BWP270 for Civil Application
- NB: The cost of civil case is dependent upon the rate of exchange of pleadings.

Magistrate Court Fees

- Writ of Summons, originating motion, petition or application and other originating document whereby an action is instituted is P60

Payment is accepted by:

- Postage stamps issued by any Botswana Post office equating the value of the document in question as per the Second Schedule of the rules of the court or,
- In cash paid to the Revenue office.

Where can I get more information on this Service

The Registrar and Master

High Court - Gaborone

Private Bag 00220

Gaborone

Botswana

Tel: (+267) 3718000 / (+267) 3971706

Fax: (+267) 3915119

The Deputy Registrar's

High Court - Francistown

Private Bag F13

Francistown

Tel: (+267) 2412125 / (+267) 2416378

Fax. (+267) 2416378

The Deputy Registrar

High Court - Lobatse

Private Bag 001

Lobatse

Botswana

Tel: (+267) 5338000 / (+267) 5332317

Fax: (+267) 5332317

Further information on the Originating process can be found in Order six, High Court rules.

Toll free No: 0800601027

Tel: +267 371 8000

Fax: (+267) 391 5119

Website: www.justice.gov.bw

Opening hours: 07:30 to 12:45 and 13:45 to 16:30 Monday to Friday, except public holidays.