

**CHAPTER 358**  
**THE JUDICATURE AND APPLICATION OF LAWS ACT**

[PRINCIPAL LEGISLATION]

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## SCHEDULES

### CHAPTER 358 THE JUDICATURE AND APPLICATION OF LAWS ACT

**An Act to declare the jurisdiction of the High Court and courts subordinate thereto and to apply and recognise certain laws.**

[1st December, 1920]  
[9th December, 1961] 1  
(1)[s. 1]

[R.L. Caps. 2 and 453]

Ords. Nos.

7 of 1920

17 of 1922

25 of 1929

26 of 1932

8 of 1935

12 of 1936

35 of 1940

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35 of 1961

57 of 1961

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8 of 1962

62 of 1962

55 of 1963

46 of 1964

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49 of 1966

59 of 1966

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**PART I**  
**PRELIMINARY PROVISIONS (s 1)**

**1. Short title**

This Act may be cited as the Judicature and Application of Laws Act.

**PART II**  
**JURISDICTION OF THE HIGH COURT AND SUBORDINATE COURTS (ss 2-8)**

**2. Jurisdiction of the High Court**

(1) Save as provided hereinafter or in any other written law, expressed, the High Court shall have full jurisdiction in civil and criminal matters.

(2) For the avoidance of doubt it is hereby declared that the jurisdiction of the High Court shall extend to the territorial waters.

(3) Subject to the provisions of this Act, the jurisdiction of the High Court shall be exercised in conformity with the written laws which are in force in Tanzania on the date on which this Act comes into operation (including the laws applied by this Act) or which may hereafter be applied or enacted and, subject thereto and so far as the same shall not extend or apply, shall be exercised in conformity with the substance of the common law, the doctrines of equity and the statutes of general application in force in England on the twenty-second day of July, 1920, and with the powers vested in and according to the procedure and practice observed by and before Courts of Justice and justices of the Peace in England according to their respective jurisdictions and authorities at that date, save in so far as the said common law, doctrines of equity and statutes of general application and the said powers, procedure and practice may, at any time before the date on which this Act comes into operation, have been modified, amended or replaced by other provision in lieu thereof by or under the authority of any Order of Her Majesty in Council, or by any Proclamation issued, or any Act or Acts passed in and for Tanzania, or may hereafter be modified, amended or replaced by other provision in lieu thereof by or under any such Act or Acts of the Parliament of Tanzania:

Provided always that the said common law, doctrines of equity and statutes of general application shall be in force in Tanzania only so far as the circumstances of Tanzania and its inhabitants permit, and subject to such qualifications as local circumstances may render necessary.

**3. High Court to have jurisdiction over proceedings relating to merchant shipping**

The High Court shall be a Court of Admiralty and shall, subject to the provisions of any written law, have jurisdiction which is conferred upon it or which may hereafter be conferred

upon it as such Court of Admiralty by any written law and, more particularly, shall have jurisdiction to make orders and to hear and determine claims, proceedings and other matters in respect of which jurisdiction is conferred upon a court by the Merchant Shipping Act \*(2).

#### **4. Rules of procedure**

Subject to the provisions of any other written law, the Chief Justice may make rules for regulating the practice and procedure of the High Court and of all other courts established in Tanzania.

#### **5. Powers of a single judge of the High Court**

Subject to any written law to the contrary, a judge of the High Court may exercise all or any part of the jurisdiction of, and all or any powers and authorities conferred on, the High Court.

#### **6. Jurisdiction of magistrates' courts**

Subject to the provisions of any written law and to the limits of its jurisdiction, a magistrates' court shall exercise its jurisdiction in accordance with the laws with which the High Court is required by this Act to exercise its jurisdiction and with such other laws as shall be in force in Tanzania from time to time, and applicable to the proceedings before it, but no magistrates' court shall exercise any jurisdiction or powers that are by any such law conferred exclusively on the High Court as such or on a court of record.

#### **7. Judges to have all powers of magistrates**

In addition to any other powers, functions and jurisdiction conferred upon him, a judge of the High Court and a person appointed to act as a judge of the High Court shall have and may exercise all the powers and functions conferred by law upon any description of magistrate, may hold any description of a magistrates' court and, when holding the same, shall have and may exercise the jurisdiction of a magistrate of that court.

#### **8. Preferment of magistrates not to affect powers to complete proceedings**

(1) Notwithstanding that any magistrate shall have been appointed to be or to act as a judge of the High Court or any primary court magistrate shall have been appointed to be or to act as a district magistrate, such former magistrate or primary court magistrate shall have power and jurisdiction to continue and complete any proceedings that were commenced before him prior to such appointment.

(2) The provisions of this section shall be without prejudice to the generality of section 7.

### **PART III**

#### **APPLICATION AND RECOGNITION OF LAWS (ss 9-21)**

##### **A: APPLICATION OF ACTS OF THE UNITED KINGDOM (ss 9-10)**

## **9. Certain Acts of the United Kingdom Parliament to apply**

The provisions of the Acts of the Parliament of the United Kingdom described in the First Schedule hereto, as amended prior to the twenty-second day of July, 1920, shall apply to and have effect within Tanzania subject to the exceptions, adaptations and modifications set out therein.

## **10. Repealed**

[Repealed by Act No. 31 of 1966 Sch.]

## **B: APPLICATION OF CUSTOMARY LAW (ss 11-13)**

### **11. Applicability of customary law**

(1) Customary law shall be applicable to, and courts shall exercise jurisdiction in accordance therewith in, matters of a civil nature—

- (a) between members of a community in which rules of customary law relevant to the matter are established and accepted, or between a member of one community and a member of another community if the rules of customary law of both communities make similar provision for the matter;
- (b) relating to any matter of status of, or succession to, a person who is or was a member of a community in which rules of customary law relevant to the matter are established and accepted; or
- (c) in any other case in which, by reason of the connection of any relevant issue with any customary right or obligation, it is appropriate that the defendant be treated as a member of the community in which such right or obligation obtains and it is fitting and just that the matter be dealt with in accordance with customary law instead of the law that would otherwise be applicable,

except in any case where it is apparent, from the nature of any relevant act or transaction, manner of life or business, that the matter is or was to be regulated otherwise than by customary law:

Provided that—

- (i) where, in accordance with paragraph (a), (b) or (c) of this subsection customary law is applicable to any matter, it shall not cease to be applicable on account of any act or transaction designed to avoid, for an unjust purpose, the applicability of customary law; and
- (ii) nothing in this subsection shall preclude any court from applying the rules of Islamic law in matters of marriage, divorce, guardianship, inheritance, wakf and

similar matters in relation to members of a community which follows that law.

(2) It is hereby declared for the avoidance of doubt that—

- (a) a person may become a member of such a community as is referred to in subsection (1), notwithstanding that he was hitherto a member of some other community (and whether or not any customary law is established or accepted in such other community), by his adoption of the way of life of the first-mentioned community or his acceptance by such community as one of themselves, and such adoption or acceptance may have effect either generally or for particular purposes;
- (b) a person may cease to be a member of a community by reason of his adoption of the way of life of some other community (whether or not any customary law is established or accepted in such other community) or acceptance by some other community as one of themselves, but shall not be treated as having ceased to be a member of a community solely by his absence therefrom.

(3) In any proceedings where the law applicable is customary law, the court shall apply the customary law prevailing within the area of its local jurisdiction, or if there is more than one such law, the law applicable in the area in which the act, transaction or matter occurred or arose, unless it is satisfied that the proper customary law to be applied is some other law:

Provided that the court shall not apply any rule or practice of customary law which is abolished, prohibited, punishable, declared unlawful or expressly or impliedly disapplied or superseded by any written law.

(4) Notwithstanding the provisions of this Act, the rules of customary law and the rules of Islamic law shall not apply in regard to any matter provided for in the Law of Marriage Act \*(3).

(5) For the avoidance of doubts it is hereby declared that the reference to a written law in subsection (3) does not include any law or practice other than any such written law applied to or enforceable in Tanzania in accordance with the provisions of section 9 or 14 of this Act, subsection (1) of section 2 of the Law of Real Property and Conveyancing Act or any English Act declared to be in force by order made under section 11 of the Law of Real Property and Conveyancing Act \*(4).

## **12. Declaration and modification of customary law**

(1) A district council may, and where the Minister so requires shall, record in writing a declaration of what in the opinion of the council is the local customary law relating to any subject either as applying throughout the area of the council or in any specified part thereof, and submit such declaration to the Minister.

(2) A district council may, if in the opinion of the council it is expedient for the good government and welfare of the area, submit for the consideration of the Minister a recommendation for the modification of any local customary law, whether or not a declaration

has been recorded.

(3) If the Minister is satisfied that a declaration recorded under subsection (1) accurately records the local customary law with respect to the subject to which it relates, or that a modification recommended under subsection (2) is expedient and that such local customary law or modification is not incompatible in its terms or by necessary implication with any written law, he may by order direct such declaration or such modification to be the local customary law in respect of the subject and within the area to which it relates and shall cause such declaration or modification to be published in such manner as he may deem expedient.

(4) Notwithstanding the foregoing provisions of this section, no declaration or modification shall include any provision purporting to declare any act or omission criminal, and the Minister may amend any declaration deemed to have been made under this section in order to remove any such provision.

(5) In this section—

"district council" means a district council, established under the Local Government (District Authorities) Act \*(5);

"Minister" means the Minister responsible for legal affairs.

### **13. Saving**

Any appointment made by the Governor of Tanganyika under or for the purposes of any of the Acts set out in the First Schedule hereto, and still in force immediately prior to the date on which this Act comes into operation, shall continue in force until revoked by the President or other appropriate authority.

## **C: APPLICATION OF INDIAN ACTS (ss 14-21)**

### **14. Indian Acts applied**

The Acts of the Governor-General of India in Council set out in the third column of the Second Schedule hereto (and hereinafter referred to as "the Indian Acts") and such amendment of or substitution for the same as was in force on 1st December, 1920 are, subject to the exceptions described in the fourth column of the said Schedule, hereby applied to Tanzania.

### **15. Modifications**

In the application of the Indian Acts, the following modifications shall be made, that is to say—

- (a) the word "Tanganyika" shall be substituted for the words "British India";
- (b) the powers of the Governor-General in Council and of the local Government shall be exercised by the President;

- (c) the expressions "High Court" and "District Court" in any of the said Acts shall be deemed to be the High Court of Tanzania.

#### **16. Power to adapt**

For the purpose of facilitating the application of the Indian Acts any court may construe any provision with such modification not affecting the substance as may be necessary or proper to adapt the same to the matter before it and it shall be lawful for the President by notice in the *Gazette* to prescribe any such modification and to direct by what person or authority any jurisdiction, powers or duties incident to the operation of any of the said Acts shall be exercised or performed.

#### **17. Future amending Acts not to apply**

No Indian Act passed after the 1st December, 1920 amending or in substitution for any of the Indian Acts shall apply to Tanzania.

#### **18. Abrogation of formalities prior to making rules**

So much of any Indian Act applied to Tanzania by this Act as requires the previous publication of a draft of proposed rules or by-laws, or requires a draft of proposed rules or by-laws to be referred to any board or authority, or provides that a power to make rules or by-laws shall be subject to the condition of the rules or by-laws being made after previous publication, or requires any rule or by-law to be notified to the persons affected thereby in any manner otherwise than publication in the *Gazette*, shall not be, and shall be deemed never to have been, in force in Tanzania.

#### **19. Repealed**

[Repealed by Act No. 6 of 1967 s. 180(6)(a).]

#### **20. Repealed**

[Repealed by Act No. 49 of 1966 by virtue of ss. 98-100 and by Act No. 10 of 1971 2nd Sch.]

#### **21. Repealed**

[Repealed by Act No. 10 of 1971 2nd Sch.]

### **FIRST SCHEDULE APPLIED ACTS OF THE PARLIAMENT OF THE UNITED KINGDOM**

<i>Session and Chapter</i>	<i>Short title</i>	<i>Provisions which apply</i>
19 & 20 Vict. c. 113	Foreign Tribunals Evidence Act, 1856	The whole Act.

22 Vict. c. 20	Evidence by Commission Act, 1859	The whole Act.
22 & 23 Vict. c. 63	British Law Ascertainment Act, 1861	The whole Act.
24 & 25 Vict. c. 94	Foreign Law Ascertainment Act, 1861	The whole Act.
37 & 38 Vict. c. 94	Conveyancing (Scotland Act, 1874	Section 51.
47 & 48 Vict. c. 31	Colonial Prisoners Removal Act, 1884	The whole Act.
48 & 49 Vict. c. 74	Evidence by Commission Act, 1885	The whole Act.

The provisions set out in this Schedule shall apply to Tanzania as if there were substituted for the references therein to—

- (a) a British Colony or Possession, references to Tanzania;
- (b) the Governor of a British Colony or Possession, references to the President; and
- (c) a Superior or Supreme Court, a Magistrate or Justice of the Peace of a British Colony or Possession, and in the case of the Conveyancing (Scotland) Act, 1874, to a Court of Probate in a Colony, references to the High Court.

## **SECOND SCHEDULE APPLIED INDIAN ACTS**

<i>Year</i>	<i>No.</i>	<i>Title</i>	<i>Exceptions</i>
(a) 1865	X	The Indian Succession Act	Parts XXIX to XL (inclusive) and section 333, but subject to s. 53 of the Administrator-General (Powers and Functions) Act (Cap. 27).
(b) 1870	XXI	The Hindu Wills Act.	

## **CHAPTER 358**

# **THE JUDICATURE AND APPLICATION OF LAWS ACT**

[SUBSIDIARY LEGISLATION]

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## **NOTICES**

### **THE HIGH COURT (REMUNERATION OF COMMERCIAL COURT ASSESSORS) NOTICE**

(Rule 5D)

[12th October, 2001]

G.N. No. 250 of 2001

**1. Citation**

This Notice may be cited as the High Court (Remuneration of Commercial Court Assessors) Notice.

**2. Entitlement**

Every assessor of the High Court (Commercial Division) who attends a session pursuant to Rule 5C of the High Court Registries (Amendment) Rules \*(6), shall be entitled to a sum of forty thousand shillings for each whole day or part of the day he is in attendance at such court.

**ORDERS**

**THE LOCAL CUSTOMARY LAW (DECLARATION) ORDER (1963)**

(Section 12)

[1st August, 1963]

G.N. No. 279 of 1963

1. This Order may be cited as the Local Customary Law (Declaration) Order.

2. The declaration set out in the First Schedule to this Order is hereby directed to be the local customary law in respect of the subjects contained therein in the areas subject to the jurisdiction of the Handeni, Kahama, Kondoa, Lushoto, Musoma, Ngara, Nzega and Pangani District Councils.

3. Subject to the respective modifications set out in the Second Schedule to this Order in relation to the areas of the several district Councils, the declaration set out in the First Schedule to this Order is hereby directed to be the local customary law in respect of the subjects contained therein in the areas subject of the jurisdiction of the Buhaya, Kwimba and Ukerewe District Councils.

**FIRST SCHEDULE  
DECLARATION OF LOCAL CUSTOMARY LAW**

SHERIA ZINAZOHUSU HALI YA WATU

MLANGO WA KWANZA

Mahari

## Ulipaji wa Mahari - Sheria za Kawaida

1. Mahari ni malipo ya ng'ombe au mali ya namna nyingine yalipwayo na bwana arusi kwa baba ya binti au mdhamini wake, sababu anataka kumwoa binti yake.

2. Kwa kufuata sheria za uvunjaji wa sheria mzazi anaweza kuadhibiwa kwa kutoa ruhusa binti yake kuolewa ili hali hajavunja ungo.

3. Kabla binti hajafika umri wa miaka 21 hawezi kuolewa bila idhini ya baba yake au mdhamini wa baba yake.

4. Baada ya kufikia umri wa miaka 21 binti yu huru kuolewa.

5. Ulipaji wa mahari si jambo la lazima katika kuthibitisha ndoa.

6. Malipaji ya mahari ni juu ya bwana arusi mwenyewe ingawaje jamaa zake wanaweza kumsaidia katika kutimiza wajibu wake.

7. Mtu aliye na haki ya kupokea mahari ni baba ya bibi arusi au mrithi wake wa halali bila kujali kama ni mwanamke au mwanamume isipokuwa kama mrithi ni binti ambaye analipiwa mahari.

8. Iwapo kwa kosa mahari yamelipwa kwa mtu ambaye hana haki kupokea, bwana arusi itambidi kulipa tena na kumpa mtu yule ambaye ana haki hiyo ka kama akitaka kuoia binti. Bwana arusi anaweza kumshtiaki yule mdanganyifu ili amrudishie mali yake.

9. Lakini ikiwa mpokeaji wa mahari ni mmoja katika wazazi wa kuumeni wa bibi arusi na ikibainika kwamba yuko ndugu mwingine ambaye ndiye ingelibidi apokee mahari hayo, bwana arusi hawezi kuwa na lawama juu ya kosa hilo na shauri litabidi lijadiliwe kati ya ndugu wanaohusika.

### ***Kima cha Mahari***

10. **A.** Sheria zote zinazoweka mipaka ya kima cha mahari ni lazima zifutwe.

**B.** Kiasi cha mahari kinachohitajiwa ni lazima kifikiwiwe na kifuatwe na uwezo wa bwana arusi.

11. **A.** Katika jimbo la Kati, la Tanga, la Nyanda za Juu, la Tabora, la Shinyanga, la Mara, la Mwanza, la Kigoma na la Kilimanjaro thamani ya sarufu badala ya ng'ombe na mbuzi imekubaliwa kama ifuatavyo:–

Ng'ombe jike 1 kwa mbuzi 5 au kondoo 5

Ng'ombe jike 1 kwa Shilingi 100/-

Fahali 1 kwa Shilingi 90/-

Mbuzi 1 kwa Shilingi 20/-

Kondoo 1 kwa Shilingi 20/-

**B.** Kwa ajili ya ng'ombe wa Kiankole huko Jimbo la Ziwa Magaribi ni:-

Ng'ombe jike 1 kwa mbuzi 5 au kondoo 5

Ng'ombe jike 1 kwa Shilingi 400/-

Fahali 1 kwa Shilingi 200/-

Mbuzi 1 kwa Shilingi 40/-

Kondoo 1 kwa Shilingi 40/-

### ***Kubalidili kwa Ng'ombe waliolipwa kwa Mahari***

**12.** Baada ya baba ya bibi arusi kwisha chagua na kupokea wanyama ambao ndio mahari na arusi ikiisha fanyika hatakuwa na haki ya kudai kubadilisha mnyama hata kama mnyama huyo ana kasoro ya namna yo yote na bila kujali chanzo cha kifo cha mnyama huyo.

### ***Malipo ya Desturi pasi ya Mahari***

**13.** Malipo mengine ya kidehuri kuhusikana na arusi ni zawadi ambazo hazirudishwi. Ni vitu vile tu ambavyo lazima virudishwe iwapo mahari yatarudishwa, ndivyo vitakavyohesabiwa kama sehemu ya mahari.

### ***Sheria za Kawaida za Ulipaji wa Mahari***

**14.** Ni juu ya baba ya bibi ya arusi na bwana arusi mwenyewe kuona kwamba mahari yamelipwa mbele ya mashahidi zaidi ya mmoja kutoka kila upande.

**15.** Wanyama, na/au mali yo yote ilipwayo kwa mahari ni mali ya yule mwenye haki ya kupokea ambaye hawezi kulaumiwa kwa kuzitumia au kuziua.

**16.** Mtoto wa wanyama hao anakuwa ni mali ya mwenye haki ya kupokea mahari na hawezi kuhesabiwa kama sehemu ya mahari ambayo yahajalipwa.

**17.** Iwapo baba atapokea mahari toka kwa wachumba wawili wa binti yake kwa wakati mmoja, anastahili kutozwa faini isiyopungua shilingi 100/-. Baba ya msichana ni lazima arudishe sehemu yote iliyolipwa na mchumba wa kwanza kabla ya kupokea malipo yo yote toka kwa mtu mwingine.

**18.** Iwapo mwanamke amewekwa kinyumba, ndugu ambaye anastahili kupokea mahari kwa niaba yake, haruhusiwi kufanya mashauri yoyote juu ya kuolewa kwa mwanamke huyo na mtu mwingine, na wala huyo ndugu hana ruhusa kupokea malipo ya kwanza ya mahari mpaka yule mwanamke amehama kutoka katika nyumba ya mpenzi wake. Atakayevunja sheria atastahili

kulipa faini isiyopungua shilingi 100/-.

**19.** Kila moja ya pande mbili zinazohusika na mipango ya arusi, ina haki ya kuvunja mapatano wakati wowote kabla ya arusi kufanyika.

### ***Mahari ilipwayo na Ndugu wa Kuumeni au Kiken***

**20.** Jamaa inayotokana na mahari ilipwayo na baba, ndugu wa kuumeni au toka kwa bwana arusi mwenyewe huitwa *nyumba ya kuumeni*. Jamaa inayotokana na mahari iliyolipwa na dngu wa mama wa bwana arusi huitwa *nyumba ya kuukeni*.

**21.** Iwapo mjomba anataka na baba bnakubali, basi huyomjomba anaweza kumpa mpwa wake mahari yote au sehemu ya kumsaidia mahari hiyo. Vivyo hivyo, mama anaweza kumsaidia mtoto wake katika ulipaji wa mahari kutokana na vitu alivyorithi kwa baba yake.

**22.** Watoto kutoka katika hiyo *nyumba ya kuukeni* hufuata ukoo wa baba yao, lakini kuhusikana na mabinti wakati wanapoolewa ni jambo la kawaida kwa baba ya bibi arusi kutoa sehemu ya mahari na kuwapa nduguze wa *kuukeni* ambao walimsaidia yeye wakati wa kuo; lakini hilo si deni linaloweza kufikishwa kwa hakimu.

### ***Mahari ilipwayo baada ya Baba wa Binti kufariki (kama hakuna Hati ya Wosia)***

#### ***23. A. Nyumba ya Mke Mmoja***

Iwapo binti anaolewa baada ya baba yake kufariki, mahari yake hupokelewa na mrithi wa haki wa marehemu.

#### ***B. Nyumba ya Wake Waliopalikwa.***

- (I) Iwapo binti anaolewa baada ya baba yake kufariki, mahari yake hupokelewa na kaka yake mkubwa toka nitoke.
- (II) Iwapo mmoja miongoni mwa wajane hana watoto wa kiume mahari ya binti wake hupokelewa na ndugu yake wa kiume ambaye wamechangia baba na ambaye ndiye mrithi wa jamaa hiyo yote.
- (III) Iwapo katika jamaa hiyo kuna mabinti watupu, basi mama na mlinzi mwenzake ndio wanaopokea mahari.

**24.** Iwapo bibi arusi ni mtu mzima (mwenye miaka 21 au zaidi) na hana ndugu wa kiume wanaoweza kupokea mahari yake, basi mahari yanaweza kupokelewa na rafiti yeyote wa nyumbani kwao lakini hupokea mahari hiyo kama mdhamini tu, na mwenye mali ni yule mwanamke.

**25.** Iwapo kuna dada wawili ambao hawana dngu ye yote anayeweza kupokea mahari, basi kila mmoja wao anaweza kupokea mahari ya mwingine.

## NAMNA YA KULIPA MAHARI

### *A. Mahari ilipwayo yote kabla ya Ndoa*

**26. (I)** Mahari yote inaweza kulipwa mara moja kabla ya ndoa.

**(II)** Mahari yanaweza kulipwa kwa sehemu sehemu na kumalizwa kabla ya ndoa.

**27.** Iwapo bwana arusi akishindwa kulipa mahari yote mara moja, kwa kawaida hupewa muda mfupi tu kumaliza kulipa kabla ya ndoa.

**28.** Kama mahari ni ng'ombe na kama mnyama mmoja akifa kabla mahari yote hayajamalizwa ni juu ya bwana arusi kutafuta mnyama mwingine, lakini kama mnyama akipotea tu basi hiyo ni hasara ya baba wa binti.

### *B. Mahari ilipwayo kwa sehemu sehemu kabla na baada ya Ndoa*

**29.** Arusi hufanyika baada ya kulipwa kwa sehemu ya kwanza ya mahari. Si desturi kuweka kima na tarehe za ulipaji baada ya arusi.

**30.** Kama mume akichelewesha malipo, baba wa binti ana haki ya kudai barazani malipo, baba wa binti ana haki ya kudai barazani malipo ya sehemu zilizobaki. Nis juu ya baraza kufikiri juu ya wakati uliopita tangu malipo ya mwisho na kuangalia hali ya mapato ya mume na halafu kutengeneza mipango ya ulipaji.

**31.** Iwapo baba atamwita binti yake arudi nyumbani kwa sababu mumewe hajamaliza kulipa sehemu ya mahari, basi baba huyo anavunja sheria na anastahili kutozwa faini isiyopungua shilingi 100/-.

**32.** Mume na mke wana uhuru wa kuhamia po pote hata kama mahari hayajalipwa yote.

**33.** Kama mume akifa kabla hajamaliza kulipa mahari yote, ndugu yule aliyekubaliwa na mjane kuishi naye kama mume wake ndiye atakayemaliza kulipa sehemu iliyobaki.

### *Kugawanywa kwa Mahari*

**34.** Makabila mengine hayana kawaida ya kugawanya mahari kati ya jamaa wa kuumeni na wa kikenji.

**35.** Makabila mengine yana tabia ya kumwachia baba wa binti kugawanya sehemu za mahari. Kiasi cha mafungu ni kama inavyokubaliwa kati ya baba na ndugu.

**36.** Ndugu wanaopokea mafungu yo yote wana wajibu wa kuyarudisha kama ndoa ikivunjika na mahari ikibidi kurudishwa.

### *Urudishaji wa Mahari - Sheria za Kawaida*

**37. A.** Baba wa binti au mrithi wake anaweza kutakiwa kurudisha mahari wakati ndoa

inapovunjika.

**B.** Mtu anayeweza kudaiwa kurudisha mahari ni yule aliyepokea mahari au mrithi wake.

**38.** Kiasi cha mahari kinachobidi kurudishwa na njia za kurudishia huamliwa na baraza.

**39.** Urudishaji wa mahari yenyewe ni lazima ufanyike mbele ya mashahidi zaidi ya mmoja kutoka kila upande. Mashahidi ni lazima wafuatane na baba mkwe na mume au mawakili wao wa halali huko barazani ili washuhudie kiasi cha mahari kinachorudishwa.

**40.** Deni la urudishaji wa mahari ni deni lililo muhimu kwa baba mkwe na uvunjaji wa sharti hili waweza kufikishwa mbele ya baraza la wenyeji kama kesi ya madawa.

**41.** Kama mahari ikiwa na mifugo mume anaweza kudai kwamba wanyama wale wale aliwatoa ndio warudishwe iwapo bado wamo mikononi mwa baba mkwe. Hali kadhalika baba mkwe anaweza kurudisha wanyama wale wale aliopokea, na mume ni lazima awapokee hata kama hali yao imekuwa dhaifu.

**42.** Iwapo baba mkwe hana hata mnyama mmoja kati ya wale waliolipwa kwa mahari, si lazima kwake kurudisha wanyama wa hali ile ile. Muda ambao mume na mke wameishi pamoja ni lazima ufikiriwe, lakini mume anaweza kukataa kupokea wanyama ambao hawana faida yoyote.

**43.** Kama mume akikataa kupokea ng'ombe wa mahari ambao ni haki yake, na kama baraza likikata shauri kwamba ukatazi wake si wa haki, basi baraza linaweza kutoa talaka papo hapo.

**44.** Mume hawezi kudai kwamba mahari aliyolipa irudishwe kwa kutoa vitu vile vile alivyotoa, isipokuwa kama vitu hivyo vimo mikononi mwa baba mke.

**45.** Watoto wa wanyama waliolipwa kwa mahari, kama wanyama hao walikuwa ng'ombe au mbuzi, wasirudishwe. Vivyo hivyo kama mahari yalilipwa kwa pesa haitawezekana kudai faida ya pesa hizo.

**46.** Kama ndama ambaye hajaacha kunyonya ikibidi arudishwe na mama yake, basi huhesabiwa kama ni mmoja wa wale wanaorudishwa.

*Urudishaji wa Mahari baada ya Kufariki kwa Baba Mke*

**47. I. Nyumba ya mke mmoja**

**A.** Baba ya binti akifa mrithi wake mkubwa ndiye atakayerudisha mahari.

**B.** Kama baba hakuacha watoto wa kiume na mabinti wake ndio waliorithi mali yake, ambalyo pia ina mahari zao, basi mume anaweza kudai mahari toka kwa binti mkubwa wa marehemu.

**C.** Kama mahari imepokelewa na rafiki akiwa kama mdhamini wa mke, yule mke ni wajibu

wake kurudisha (tazama kifungu cha 24).

II *Nyumba yenye wake waliopalikwa.*

**A.** Mume ni lazima adai mahari kutoka katika nyumba iliyopokea mahari yake.

**B.** Kama baba mkwe mwenyewe ndiye aliyepokea mahari hiyo wakati akiwa hai ni mrithi wake ndiye mwenye wajibu wa iuyarudisha bila kujali ni nyumba ipi alikotoka yule mke.

*Urudishaji wa Mahari iwapo yule Binti anaolewa mara nyingine*

**48.** Kama baba mkwe hajamaliza urudishaji baada ya binti wake kuachika, ni lazima alipe deni lake mara tu akipokea mahari nyingine kwa ajili ya arusi ya pili.

**49.** Ni lazima ikubaliwe kwamba wanyama na/au mali nyingine yoyote ya mahari ya mara ya pili ipelekwe barazani na wala sio nyumbani mwa baba mke. Mume wake wa kwanza au mdhamini wake ni lazima aitwe barazani siku ile ile ili apewe haki yake mbele ya baba mkwe.

**50.** Kama kiasi kilicopo hakitoshikulipa deni lote, kile kiasi kinachobaki kinakuwa ni deni la muhimu, lakini mke ni lazima apewe talaka yake (tazama kifungu cha 59).

**51.** Kama baba mkwe hafuati utaratibu wa kifungu cha 49 basi anaweza kuwa na hatia ya kulipa faini kiasi kisichopungua shilingi 100/-.

*Urudishaji wa Mahari kama Ndoa ikivunjika*

**52.** Ndoa inapovunjika bila ya kutoka sababu maalum kwa mke au mume:

**A.** Kama hawakuzaa, maisha ya ndoa tu ndiyo yafikiriwe katika kuweka kiasi cha mahari ambayo itarudishwa.

**B.** Kama walizaa watoto, wawe wawili wanatoa sababu za kautaka kuachana, basi ni juu ya baraza kufikiri ni yupi aliye na makosa kati ya mke na mume au yupi kati yao ndiye chanzo cha kuvunjika ndoa.

**53.** Wakati inapotokea kwamba mmoja au wote wawili wanatoa sababu za kutaka kuachana, basi ni juu ya baraza kufikir ni yupi aliye na makosa kati ya mke na mume au yupi kati yao ndiye chanzo cha kuvunjika ndoa.

**54.** Ni uwezo wa baraza kubadili masharti yaliyomo katika kifungu cha 52 A na B na kufikiria kiasi cha mahari kinacobidi kurudishwa, nayo ni lazima ifuate kosa lenyewe.

**55.** Baraza linapochungua juu ya shauri hili pia huchungua maisha ya ndoa.

**56.** Kama mume ndiye mwenye makosa yule mke anapewa talaka mara tu baada ya baraza kukata shauri. Habari ya urudishaji wa mahari hufikiriwa pekee.

**57.** Kama mume alimtesa mke wake kwa makusudi ya kupata chokocho ya kuachana,

basi baraza linaweza kuamua kwamba sehemu tu au chochote kisilipwe hata kama hawakupata mtoto.

**58.** Kama mke ndiye mwenye makosa, hawezi kupewa talaka mpaka baba yake amalize kurudisha mahari yote au kama hana vifaa vya kumwezesha kufanya kama alivyoamriwa na baraza mara moja, basi kiasi kinachobaki kinakuwa kama deni la muhimu kwa yule baba.

**59.** Kama mke mara kwa mara anafanya matendo mabaya ambayo mume yanamuudhi sana, hasa inapokuwa ni namna ya kumuudhi ili aweze kumwacha, baraza litashauri kwamba mahari yote au sehemu tu inabidi kurudishwa, hata kama mke na mume walipata watoto. Kama mume alikuwa hajamaliza kulipa mahari yote, baraza ni lazima lipime na likadirie hesabu ya malipo ya mahari yote kama ilivyokubaliwa na baba mkwe na bwana arusi.

**60.** Wakati mmojawapo anang'ang'ania kuachana bila ya kutoa sababu yeyote, ni yeye ndiye atakayedhaniwa kuwa mwenye makosa.

**61.** Upande ule ulio na makosa ndio hauna budi kulipa gharama zote za baraza na gharama ya hati ya Talaka.

*Kama Mjane akirudi Kwao*

**62.** Mjane huulizwa kama anapenda kuchukuliwa na ndugu wa marehemu. Kama kikataa, mahari hairudishwei naye (mjane) ana uhuru kwenda kuishi na ndugu zake.

**63.** Mjane ni lazima apewe hati ya kuthibitisha ujane wake na kwamba ametengana kabisa na jamaa ya marehemu mume wake.

**64.** Kama mjane anakubali kuishi kama mke wa mmoja wa ndugu wa marehemu, na shauri likikubaliwa na baraza la ukoo, basi anakuwa mke halai wa ndugu hule.

**65.** Mahari yale yaliyolipwa na marehemu hufikiriwa kama kwamba yamelipwa na ndugu yule.

*Mjane mwenye Watoto walio hai au Waliokufa*

**66. A.** Mjane anayo haki ya kumchagua ndugu mmoja wa marehemu na kuishi naye kama mume wake, au anaweza kudai kuishi na watoto wake katika nyumba ya marehemu na atakuwa mmojawapo katika jamaa ya marehemu.

**B.** Hata hivyo apewe hati ya kuthibitisha kuwa yeye ni mjane. (Tazama kifungu cha 63).

**67.** Ingawaje mjane wa namna hiyo anatazamiwa kuishi na watoto wake tu, lakini hakuna ndugu aliye na haki ya kumfumania.

**68.** Iwapo mjane kwa ung'ang'anizi wake anishi na mtu ambaye si ndugu ya jamaa wa marehemu, baraza la ukoo lina haki ya kumwonya na kama halikufaulu linaweza kumridisha

kwa baba zake na pia kumnyang'anya watoto wake.

**69.** Kama mjane akibeba mimba ya mtu ambaye si ndugu wa marehemu baraza la ukoo linaweza kuchagua ama kumrudisha yule mjane kwa baba zake au kumkubali mtoto atakayezaliwa kuwa ni mmoja katika watoto wa marehemu.

**70.** Kama baba wa yule mtoto ni ndugu ya marehemu, basi mtoto siku zote hukubaliwa kuwa ni mmoja wa jamaa hiyo.

*A. Matunzo kwa Mke aliyepewa Talaka*

**71. A.** *Mke aliyekuwa wa Mkulima*

Atapata arobo ya mazao ya mwaka au ya daima, yaliyomo ghalani na makondeni katika mwaka ule ambao talaka imetolewa.

**B.** *Mke aliyekuwa wa mchuuzi, au wa mtuanayejitegemea.*

Atapokea fedha isiyopungua shilingi 150/- mara moja. Na kwa kufuata ukubwa na ushamivi wa kazi ya mume, itakuwa ni juu ya baraza kuongeza zaidi ya kima hicho.

**C.** *Mke aliyekuwa wa Mkulima ambaye pia ni Mchuuzi.*

Atapata kiasi kama kilichoelezwa katika kifungu cha 71.

**D.** *Mke aliyekuwa wa Mtumishi apokeaye mshahara daima.*

Atapokea mshahara wa mwezi mmoja wa mume wake.

**72.** Malipo yaliyotajwa hapo juu yanaweza kufuatwa wakati mume anapopatikana na hatia peke yake mbele ya baraza, laiti kama mume siye mwenye makosa pekee, basi baraza linaweza kubadili malipo hayo kadiri ifaavyo. Ili kuepikana na shida katika kulipa, baraza litatengeneza tarehe na sehemu ya malipo ambayo mume itambidi kulipa.

**73.** Kama mtalaka aliolewa tena, sehemu yeyote ambayo haijalipwa itafutwa.

**74.** Kama mke ndiye mwenye hatia, mume hana lazima ya kulipa cho chote.

**75.** Kwa kufuata masharti ya kifungu cha 71a, b, c, d yanamhusu hata mwanamke anayefanya kazi na kupata mshahara vile vile, isipokuwa kama maafikiano maalum yamefanywa na pande zote mbili.

**76.** Katika hali zote za kuachana mke anachukua vitu vyake vyote, kama vile vitu alivyotoka navyo kwao, vitu alivyorithi, zawadi alizopewa na mumewe, zawadi toka kwa marafiti na kutoka kwa ndugu zake au ndugu wa mume wake.

*B. Matunzo kwa Mjane Mgumba*

**77. 1.** Vitu vyaote vinavyoweza kuchukulika na visivyoweza kuchukulika ambazo vilichumwa wakati wa maisha ya ndoa vitagawanywa katika sehemu mbili sawa sawa baada ya kulipa madeni yote ya marehemu. Mjane atapata sehemu moja ya ishirini ya nusu moja kwa kila mwaka tangu waoane. Kwa vile vitu visivyochukulika mjane atapata sehemu ya ardhi kwa kufuata masharti kama yale yale na atakuwa na haki ya kutumia shamba kwa njua bora wakati wote mapaka aoelwe tena au kufa kwake.

**2.** Kwa mazao ya daima, atapata sehemu yake kwa masharti yale yale na ataweza kupata faida yake mpaka aoelwe au afe.

**3.** Mjane aruhusiwe kukaa katika nyumba mpaka aoelwe au afe.

**4.** Mali yote isiyochukulika itarudi mikononi mwa ndugu wa marehemu mara tu baada ya mjane kuolewa au kufa.

**78.** Kama mapato ya marehemu yalitokana na biashara au shughuli nyingine ambazo si za ukulima, baraza litakisia thamani ya mali, na mjane atapata fungu lake si za ukulima, baraza litakisia thamani ya mali, na mjane atapata fungu lake kama ihusikanavyo. Ni azi ya baraza kukata shauri juu ya ulipaji wa fungu hilo.

#### *Kama Mke au Mume Akiugua*

**79.** Si mke wala si mume anaweza kumuacha mwenzake kwa sababu ya maradhi ya namna yo yote.

#### *Juu ya Kifo*

**80. A.** Mahari haiwezi kurudishwa hata kama mke amezaa au hakuzaa.

**B.** Kama mahari haikulipwa yote, mume hana lazima ya kumaliza.

**81.** Sababu ya kifo haitazamiwi hata kama amejua mwenyewe. Na wala muda tangu kuoana haufikiriwi.

**82.** Kama mwanamke anafia katika nyumba ya mwanamume aliyekaa naye kinyumba. lakini ambaye ameanza kulipa mahari, sharti la kifungu cha 80B lifuatwe.

#### *Kama Uchumba Umevunjika*

**83.** Kama uchumba umevunjwa na mmoja kati yao au kama mmoja wao akifa, ile sehemu iliyolipwa kwa ajili ya mahari ni lazima irudishwe, na kama ni mifugo basi inarudishwa pamoja na watoto.

**84.** Kama mwanamke ndiye anayevunja uchumba basi inambidi kurudisha zawadi zote alizopokea toka kwa mchumba wake.

Lakini kama ni mifugo basi inarudishwa pamoja na watoto.

*Kikomo cha kuweka Madai kwa ajili ya kurudisha Mahari*

**85.** Baada ya kuthibitishwa kuachana na jinsi ya kurudisha mahari ikisha amuliwa, mume ni lazima akate shauri kabla ya mwezi mmoja kumalizika kama atapokea yale malipo au basi atasamehe. kama atasamehe basi mke lazima apewe hati ya talaka yake mara moja.

**MLANGO WA PILI**

***Ushirika wa Kawaida 1(7), 2(8)***

*(Ndoa)*

**86A.** Kama ndoa ni matokeo kati ya mapatano ya baba mkwe na mume, au ni matokeo ya mapatano ya watu wawili wanaohusika ni lazima ihalalishwe kwa kupatikana kwa cheti cha Ndoa. Zile desturi za kiasili ambazo hapo kale zilikuwa zikihalalisha ndoa hizo zinaweza kuendelea lakini hazihalalishi ndoa.

**B.** Habari zote za ndoa ni lazima zipelekwe mbele ya baraza la Kienyeji lililopo karibu na nyumbani kwa yule mwanamke na kama huyo binti hakai na wazazi wake basi habari hizo zipelekwe kwenye baraza lililopo karibu ya kwao na mume.

**C.** Watu wafuatao pamoja na maarusi watatakiwa kuhudhuria barazani kushuhudia ndoa:

- (a) Baba wa bibi arusi au mbadala wake iwapo yule bibi arusi hajafikia umri wa miaka 21 (tazama vifungu 3 na 4).
- (b) Shahidi mmoja anayejitegemea toka kila upande.

**87.** Ada ya kuandikisha barazani na utoaji wa hati za ndoa ni lazima iwekwe kwa nchi nzima.

**88.** Kama mjane anaolewa na ndugu ya marehemu ile ile hati ya kwanza inatosha lakini jina la yule ndugu ni lazima litiwe badala ya marehemu (tazama kifungu 65).

*Kinyumba*

**89.** Kama mwanamume anamshawishi msichana aliye chini ya miaka 21 (aliye chini ya ulezi wa baba yake) ahame kwao na kukaa naye kinyumba, ana hatia na anastahili kulipa faini isiyopungua shilingi 50/- na kumlipa fidia baba wa yule binti isiyopungua shilingi 100/-. Fidia ni lazima ilipwe kabla ya faini.

**90.** Mwanamume anayemtorosha mwanamke mara mbili tu kwa ajili ya kumtorosha binti yake.

**91.** Faini na fidia haviwezi kuhesabiwa kama sehemu ya mahari iwapo mazungumzo juu ya ndoa yataanzishwa.

**92.** Baba wa binti anaweza kumshtaki mwanamume mara mbili tu kwa ajili ya kumtorosha

binti yake.

**93.** Mali ya Bibi na Bwana ambayo wamekuwa wakikaa kinyumba inagawanywa kama ifuatavyo iwapo wamekata shauri la kutengana.

**94.** Kama mwanamume na mwanamke wameshirikiana kuanzisha mahala pa maisha yao, vifaa vilivyopatikana kwa kushirikiana hugawanywa hivi:–

Ng'ombe, vyakula vilivyomo ghalani, mazao ya kuuza, mazao ambayo hayajavunjwa, yanagawanywa sawa sawa kwa hao watu wawili. Nyumba hupewa mwanamume na mwanamke huchukua vyombo vya jikoni. Kila mtu huchukua vitu vyake vinavyohusu kama vile nguo mapambo n.k. pamoja na zawadi alizopokea toka kwa mwenziwe. Baada ya mavuno shamba ni mali ya Bwana.

**95.** Kama mwanamke amemfuata mwanamume katika nyumba yake na kustarehe pale na kama wote wawili wameshirikiana kuendesha kazi kiwanjani mwao ama kama wote walikuwa na kazi maalum, mwanamke ana haki ya kupata robo ya vitu vyote vilivyopatikana kwa msaada wake isipokuwa vitu vyake mwenyewe kama ilivyoenezwa katika kifungu cha 94.

**96.** Kama bwana amefuata mwanamke mahala pake ana haki ya kupata robo ya vitu vyote vilivyopatikana kwa msaada wake isipokuwa vitu vyake kama ilivyoenezwa katika kifungu cha 94.

**97.** Kama mwanamke na mwanamume hawataki kufuata sharti lolote katika kifungu cha 94-95, ni lazima wafanye mipango wakati unaofaa. Kama hakuna mpango wowote uliofanywa, baraza lifuate mafungu 94-96.

## **MLANGO WA TATU**

### ***Kuachana (Talaka)***

#### ***Sheria za kawaida***

**98. A.** Watu wanaweza kuachana pasi na kufika barazani bali kwa kufika barazani mwa maamuzi.

**B.** Kwa hukumu ya baraza inayofuata mashtaka ya mume au mke.

**99. A.** Utengenezaji wa baraza la maamuzi ni kazi ya sehemu hizi mbili ambazo zimekwenda sheriani.

**B.** Kwa hukumu ya baraza inayofuata mashtaka ya mume au mke.

**C.** Kama pande zote mbili zimekubaliana na hukumu ya baraza la maamuzi na baadaye upande mmoja hautimizi masharti yake, baraza halina uwezo wa kulazimisha ile hukumu.

**D.** Upande wenye hatia uanweza kushitakiwa na ule upande mwingine mbele ya baraza la

wenyeji na wale maamuzi wakitwa kama mashahidi kwa hukumu ya baraza lao.

**E.** Waamuzi hawa hawana ruhusa ya kutoza faini au kudai ada; wanaweza kupokea zawadi ambazo ni lazima ziwe zimetolewa na pande zote mbili, kila upande ukilipa kama mwingine.

**100.** Kama mume au mke akipatwa na ugonjwa wakati wa kusubiri shauri kuendeshwa, hukumu yoyote haitatolewa mpaka yule aliyeugua apate nafuu.

**101. A.** Ni jambo la lazima kwamba mume na mke wakate hati ya kuachana hata kama kesi lilimalizika kwenye baraza la maamuzi au kwenye baraza la wenyeji.

**B.** Daftari la talaka liwekwe katika kila baraza la wenyeji.

**C.** Mke anafikiriwa ameolewa mpaka apate hati yake ya kuachana. Kabla kesi yake ya kuachana haijamalizika, yeye akingali ameolewa.

**102.** Shauri likikatwa kwamba mahari lazima irudishwe basi ni lazima iandikwe ndani ya daftari la baraza, na kama mahari itarudishwa kwa vifungu vifungu, basi kila kifungu kiandikwe katika hati na kwenye daftari.

**103.** Ada ya uandikishaji barazani na utoaji wa Hati za kuachana ni lazima iwekwe kwa nchi nzima.

**104.** Watoto ni mali ya baba, naye ana haki ya kung'ang'ania kwamba aisi nao au waisi na ndugu zake. Mama naye ana haki ya kuwatembelea watoto wake mara kwa mara.

**105.** Mtoto mchanga anabaki na mama yake mpaka ameacha ziwa kabisa, lakini gharama zo zote zinazohusu matunzaji ya mtoto ni juu ya baba yake.

#### *Ugoni-Sheria za Kawaida*

**106.** Ugoni wa mke ni sababu kwa talaka.

**107.** Mume anaweza kudai alipwe fidia kila anapomfumania mke wake, isipokuwa wakati baraza linapona kwamba mume alikubali mkewe afanye zinana ili amfumanie na kuweza kulipwa fidia; katika hali kama hii yule aliyefumaniwa anaweza kusamehewa na baraza.

**108.** Mashtaka yo yote ya uzinzi au madai ya fidia hayawezi kutiliwa nguvu mpaka uwepo ushahidi wa kutosha kuonyesha kwamba matendo ya uzinifu kati ya mke na mwanamume yametendeka.

**109.** Ule ulipaji wa fidia haumpi haki yule mwanamume aliyefumaniwa ya kuchukua mtoto aliyezaliwa kama matokeo ya matendo yao.

**110.** Kama mume anakaa nyumbani, ni yeye tu anayeweza kumfumania mkewe, isipokuwa anapokuwa mgonjwa, anaweza kutuma ye yote amtakaye akafanye hivyo kwa badala yake. Ni yeye tu anayeweza kudai fidia na au kutoa talaka kwa mke wake.

**111.** Kama mume hayupo nduguye wa kiume aliye karibu anaweza kumfumania yule mke, na kama mume hana ndugu wa kiume basi yule mtu aliyemchagua kumtunza mkewe kabla ya kuondoka ndiye mwenye mamlaka. Hao wenye mamlaka wanayo haki ya kudai fidia kwa badala ya mume ambaye hayupo.

**112.** Ni mume tu anayeweza kukata shauri la kuachana au hapana.

**113.** Baraza lina haki ya kukataa kusikiliza mashtaka ya ugoni ambayo bila sababu ye yote yamecheleweshwa na mshtaki baada ya kupata habari kamili juu ya jambo hilo. Kama mume hana habari yo yote juu ya ukweli mpaka anapoipata mara tu kabla au baada ya kuzaliwa mtoto, madai ya fidia hayawezi kufikiriwa kama yamecheleweshwa.

**114.** Kama mgoni hatambuliki, lakini kama kuna uahkikisho juu ya tendo la uzinzi, mashtaka juu ya kuachana yanaweza kufikishwa barazani.

#### *Kima cha Fidia na Faini*

**115. A.** Mtu anayepatikana na hatia ya ugoni ni lazima alipe faini isiyopungua dhilingi 50/- na alipe fidia kwa mume isiyopungua shilingi 100/-. Kima halisi cha fidia kitawekwa na baraza likifikiria hali ya kesi yenyewe. Mgoni ni lazima kwamza alipe fidia halafu ndipo alipe faini.

**B.** Mke inambidi alipe faini isiyozidi shilingi 25/- isipokuwa kama ana mali yake mwenyewe na akionekana ana hatia zaidi kuliko mwenzake hapo baraza linaweza kumtoza faini kubwa zaidi.

### **BAYANA YA UGONI: USHAHIDI WA NAMNA MBILI UNAKUBALIWA KATIKA KESI ZA UGONI**

#### *A. Ushahidi ulio wazi*

**116.** Mume au mbadala wake (tazama kifungu 111) ni lazima awe na mashahidi zaidi ya mmoja aili kuhakikisha ugoni wake.

**117.** Mashahidi lazima kujitambulisha kwa wale walihalifu wakati wakiwakuta.

#### *B. Ushahidi usio dhahiri*

**118.** Lazima baraza liachiwe kufikiri kama habari iletway mbele yake ni ushahidi wa kutosha kwa uzinzi au kama inahitajiwa kutibitishwa zaidi.

**119.** Kama taarifa iliyopatikana inaonekana haitoshi kuhakikisha ugoni, basi uthibitisho ni lazima uongezwe. kwa ajili hiyo matendo yote yanayoonyesha ugoni yajumlishwe, kwa mfano:-

Kama vitu vya mgoni vikitolewa.

Kama mke akikiri.

Alama za mapigo maungoni mwa mgoni.

Kama mek akiwa ameambukizwa na magonjwa ya kisonono au kaswende.

**120.** Uhtibitisho mwingine hautakiwi kama taarifa iliyopatikana haina tafsiri nyingine isipokuwa ile ya ugoni.

**121.** Kama mke na mume wote wanaugua kisonono au kaswende na kama hakuna uthabiti wa ugoni basi talaka haiwezi kutolewa kwa sababu ya kuambukizwa ugonjwa.

**122.** Kama ugoni umehakikishwa, mashauri huahirishwa mpaka mwenye kuumia apone (kfinngu cha 165).

**123.** Mtu aliyemuabukiza mke wa mtu ni lazima alipe gharama zote zinazotokana na matatibu ya ugonjwa-mbali fidia na faini ya ugoni.

*Ugoni wakati Mume ameondoka kwa muda mrefu*

**124.** Kama mume akirudi baada ya kuondoka kwa muda mrefu na akamkuta mke wake anakaa kinyumba na mtu mwingine, anaweza kudai kuachana na pia anaweza kudai fidia ya ugoni bila ya kuhitaji uhakikisho zaidi.

**125.** Kama mume akirudi na kumkuta mke wake kabeba mimba au amezaa mtoto ambaye hawezi kuwa wake kwa sababu ya kutokuwako kwake, njia nyingi anaweza kuzifuata:

**A.** Anaweza kudai fidia ya ugoni, akakataa kumpokea mtoto yule kama wake na kumsamehe mke wake; kwa hiyo yule mtoto anakuwa ni wa ujombani.

**B.** Anaweza kudai fidia ya ugoni, kumkubali mtoto kuwa wake na kumsamehe mke wake.

**C.** Anaweza kudai fidia ya ugoni akamwacha mke wake. Yule mtoto wa mgoni anakuwa ni wa ujombani.

**126.** Mume akirudi hana budi kukata shauri mara moja juu ya mimba au juu ya mtoto yule wa mke wake. Ikiwa mume baada ya kurudi hakati shauri na anazidi kuendelea na maisha yake ya ndoa kama desturi, inafahamika kwamba amemsamehe mke wake na amekubali ubaba.

**127.** Kama wakati mume anaporudi, anapata ushahidi kwamba mke wake amefanya zinaaa, au alikaa na mtu mwingine wakati yeye alipokuwa hayupo, laini yule mke akavunja urafiki kabla mume wake kurudi, basi yule mume hawezi kudai fidia ila anaweza kudai kuachana.

**128.** Kama muem akirudi na kupata habari kwamba mke wake alifia katika nyumba ya hawara yake, mume anaweza kudai arudishiwe mahari yote aliyolipa kwa kufuata kifungu cha 52. Katika hali kama hii yule hawara atalipa fidia na faini kama zilivyoelezwa katika kifungu cha 115.

*Ugoni Utokeao kwa kutojali hali ya Mwanamke*

**129.** Ni wajibu wa mwanamume kupata hakika kwamba mwanamke anayetembea naye au anayemuoa hana mume. Usemi wo wote wa mwanamke hata kama akiutoa mbele ya mashahidi hauwezi kuwa ngao kama mwanamume akishtakiwa kwa ugoni.

**130.** Kama mambo yaliyvo yakionyesha kwamba mwanamume ameshindwa kwa haki kutambua ukweli basi hawezi kushitakiwa kwa ugoni.

Kwa mfano:

Ikifika habari nyumbani kwamba mume amefia mahali mbali na kwao na ndugu zake wakafanya matanga kama kawaida. Mjane akiolewa na mume mwingine ambaye katoa mahari. Baadaye yule mume wa kwanza akitokea, basi ule uvumi wa kifo chake ulikuwa si wa kweli. Na kama hakuna ye yote kati ya waume hawa wawili aliye tayari kwa hiari yake kumwacha yule mwanamke, basi mke ataulizwa ni yupi anayempenda kuishi naye. Yule asiyechaguliwa hurudishiwa mahari yake, na kama alizaa nae, mtoto mmoja au zaidi, anaweza kuwachukua. Baraza linaweza kukata shauri kama sehemu ya mahari isirudishwe na ipokelewe na baba wa mke kwa malezi ya mtoto au watoto.

**131.** Kama mwanamume akitambua kwamba kimada wake ni mke wa mtu mwingine, ni lazima afarakane naye mara moja. Kama akiendelea kukaa naye ingawa akienda kutoa habari kwa jumbe, basi atakuwa na hatia ya kulipa fidia kama atakutwa na mume wake akiishi na yule bibi.

**132.** Kama mtu aliyeshikwa na mume katika matendo ya uzinifu akiweza kuhakikisha kwamba yule mwanamke ni malaya, basi mume hawezi kudai fidia, bali anaweza kumtaliki yule mwanamke.

*Kuasi*

**133.** Kuasi kwa mke ni sababu inayoweza kuleta kuachana.

**134.** Mume ana haki ya kudai kuachana na kutaka kutengenezwa mashauri ya mahari kwa mintarafu ya kifungu cha 54, kama anajua mahali gani mkewe anapokaa, au kama anaweza kuhakikisha kwa bayana au kwa dalili kwamba mkewe ameasi.

**135.** Haifikiriwi kuwa ni uasi kama mke akimwacha mume wake na akaenda kwa jamaa yao.

**136.** Kama mke akienda kwa jamaa kwanza, na baada ya kukaa huko kwa muda mfupi akahama na akienda kwingine tu, mume wake anaweza kumshitaki mkewe bila ya yeye kulazimika kutoa maelezo juu ya mahali alipo.

**137.** Mtu ye yote anayemficha mke wa mtu na kukana kwamba hayumo nyumbani mwake wakati mumewe anapofika kumtafuta, ni lazima ampashe habari jumbe juu ya kuwoko kwa bibi yule. Kama asipofanya hivyo anastahili kutozwa faini isiyozidi shilingi 50/-.

**138.** Hitilafu yake ni ndugu ambaye hawezi kutozwa faini kwa sababu anaweza kuona

huruma juu ya ndugu yake na kutaka kumponya iwapo akiona makusudio ya mume ni mabaya.

**139. A.** Si ndugu wala si mtu ye yote aweza kulaumiwa au kuadhibiwa kwa kumkaribisha mwanamke nyumbani au kwa ktomwarifu mumewe (ikiwa anamjua) juu ya kuwasili kwa mke wake.

**B.** Kama mtu anataka kujiepusha na hatari ya kutiwa katika kesi ya ugoni, basi ni lazima ampeleke mwanamke kwa jumbe au wa chini yake.

**140.** Haifikiriwi kwamba ni wajibu katika sheria kwa mume kutafuta mke wake aliyemuasi.

**141.** Mume ambaye mke wake alimuasi na akarejea baadaye, hawezi kudai fidia. kama akisikia kwamba mkewe alizini wakati alipokuwa hayuko kwake, anaweza kudai kuachana naye kama hataki kumpokea tena.

#### *Kutoroshwa*

**142.** Kama mtu akimshawishi mke wa mtu, amwache mume wake na atoroke naye, mume anaweza kudai talaka.

**143.** Kama hao wawili walikutwa mahala pengine wawe wanaishi nyumba moja au mbali mbali, hakuna haja ya kuhakikisha kwamba wamezini, kwani zinaa inafikiriwa kuwa imehakikishwa.

**144.** Mwanamume na mwanamke waadhibiwe kama ilivyoielezwa katika kifungu cha 115A na B. Zaidi ya hivyo mwanamume ni lazima alipe faini isiyopungua Shilingi 50/- na mwanamke ni lazima alipe faini isiyopungua Shilingi 25/-.

**145.** Ukweli kwamba mke alimfuata hawara yake kwa hiari yake hauwafanyi wote wawili kutokuwamo hatiani.

**146.** Mtu ye yote anayewakaribisha mwanamke na mwanamume ambao anajua kuwa wametoroshana anastahili kutozwa faini isyo chini ya Shilingi 50/-.

**147.** Kama mke ametoroka na bwana, lakini haisi naye wakati mume wake anapomuona, bwana anayeishi naye ni lazima alipe ugoni. Kama mke haishi na bwana ye yote, basi yeye aliyemtorosha ndiye anayestahili kulipa ugoni.

#### *Kukataa kumfuata mume*

**148.** Kama mke alikataa kufuatana na mumewe ambaye anakusudia kuhamia mahala pengine katika wilaya au nje ya wilaya yao, mume ana haki ya kudai kuachana na hukumu juu mahari ni juu ya baraza.

**149.** Kama kuna watoto baba yao anaweza kuwachukua na kuenda nao hata kama hajamaliza kulipa mahari yote.

*Madhara kutokana na mke*

**150.** Kama mwanamke akimpiga au kuumumiza mumewe, basi ni juu ya baraza kuamua kama tendo hilo ni sababu ya kuachana au kukataa. Kama bibi ana mali yake mwenyewe baraza linaweza kutoza malipo ya fidia, kwa kadri kama ilivyoonyesha katika kifungu cha 167A-C.

*Dharau*

**151.** Kutoangalia kazi ya nyumbani siku zote, mambo ya kuabisha, utovu wa haya au tabia ya ulevi kwa mke hukubaliwa kuwa ni sababu ya kuachana.

**152. A.** Kama ikihakikishwa kwamba mke amekunywa dawa ya kutoa mimba na akafanikiwa, mume ana haki ya kudai kuachana.

**B.** Kama ikiwezekana kuhakikishwa kwamba mke amekunywa dawa na mganga, awe mwanamke au mwanamume, mganga anastahili kutozwa faini isiyopungua Shilingi 200/- ama kufungwa hivyo ilivyoandikwa katika kitabu cha jinai.

**C.** Kama mke anashindwa kuzaa hii sio sababu ya kuachana.

*Ukatazi wa haki za mume na mkewe*

**153.** Kama mke akikataa kulala na mumewe mara kwa mara pasi na sababu yo yote inayohusikana na mwili wake, basi hali hiyo ni sababu ya kuachana.

**154.** Mganga ambaye alimuagua, au kumpa dawa za uchawi mke alikwenda kwa mganga kupata dawa za uchawi bila ya ruhusa ya mume wake, basi bwana anaweza kudai kuachana.

**155.** Mganga ambaye alimuagua, au kumpa dawa za uchawi mke wa mtu bila idhini ya mumewe anastahili kutozwa faini isiyopungua Shilingi 100/-.

*Utasa wa mke*

**156.** Utasa wa mke hauwezi kuwa sababu ya kuachana.

*B. Mashtaka yaletwayo na mke-Ugoni*

**157. A.** Kwa kawaida za mila ugoni wa mume haufikiriwi sababu ya kuachana, lakini baraza linaweza kukata shauri ya kutoa talaka kwa sababu ya uzito wa kesi yenyewe.

**B.** Mume akizini na binti yake au binti yake wa kambo ni sababu za kuachana.

**158.** Baraza linaweza kuamuru kutokana na zinaa ya maharimu kwamba watoto wapewe ndugu wa mume kuwatunza. Kama hakuna ndugu wa mume basi ndugu wa mke anaweza kuteuliwa awe mtunzaji.

**159.** Kwa hali yo yote ya manma hii watoto wanaendelea kushika kikao chao kwa kufuata

masharti yanaohusu kawaida za kuumeni.

#### *Kuasi*

**160. A.** Kama mume akiondoka nyumbani kwa muda zaidi ya mwaka mmoja na nusu mke wake anaweza kudai talaka. Sharti hili vile vile linahusu hata kama mume amekuwa akitoa matumizi na utunzaji wa mkewe au kama mume alimwacha mkewe katika uangalizi wa ndugu yake.

**B.** Mume ambaye anakwenda fanya kazi nje ya Tanganyika kwa muda unaozidi mwaka mmoja na nusu na hawezi kuenda na mkewe, basi ni lazima afanye mipango maalum na mkewe kabla hajaondoka ili yule mke asiweze kutoa maombi kuhusiana na kifungu cha 160A.

**161.** Kama mahala alipo mume panajulikana basi ni lazima aarifiwe na baraza kwamba mkewe atapewa talaka kama yeye hataki kurudi mapema.

**162.** Kama baraza likiamua kuwa sehemu ya mahari iridushwe basi atapewa ndugu wa mume ambaye vile vile atawachukua watoto wa msafiri.

#### *Madhara kutokana na mume*

**163.** Mabaraza yanafikiria madhara mabaya tu kuwa sababu ya kuachana. Madhara yafuatayo yanafikiriwa kuwa makubwa na kuleta kuachana na kuhusu kima cha mahari ambayo itarudishwa (tazama kifungu cha 54).

Kwa mfano:

Jeraha lolote liletwalo na kitu chenye makali, kuvunjika, kutia ulema wa daima, kuharibu sura kwa daima, kutenda maovu kwa kuendelea.

**164.** Matendo ya nguvu yafuatayo na matokeo yao ya kawaida hayafikiriwi kuwa ni sababu za kuachana: Makofi au ngumi, kupiga kwa fimbo (hata kama kutia machubuko au uvimbe), kusukuma, kupiga mateke, kumtupia mke vitu vya nyumbani.

**165.** Kesi inaahirishwa mpaka mke apone au mpaka hapo anapopata nafuuu ya kutosha.

**166.** Mke ana haki ya kupata fidia kwa majeraha hata kama talaka inatolewa au hapana. Baraza linaweza zaidi ya kutoza fidia kwa mume vile vile kumfaini au kutoa hukumu ya kifungu.

**167.** Kipimo cha fidia kinahitilafiana kwa kufuata ubaya wa madhara yaliyofanyika:

**A.** Mapigano, michapo, kuvunjika kidole, kupoteza/kuvunjika jino, jeraha dogo dogo ambalo limepona kabisa-fidia yake si chini ya Shilingi 10/- wala haizidi Shilingi 100/-.

**B.** Kupiga kwa mara kwa mara, kuvunja mguu au mkono ambao unaweza kuponeshwa-fidia yake si chini ya Shilingi 100/- na wala haizidi Shilingi 100/.

**C.** Madhara ya daima kwenye jicho, kuharibu kiungo daima, kupoteza sehemu na nje ya

sikio, kuharibu sura maisha-fidis yake si chini ya Shilingi 200/- na wala haizidi Shilingi 500/-.

**D.** Inapotokea kuwa kilema ni kibaya sana baraza linaweza kutoa amri kwamba mume baada ya kumuacha mkewe anabaki na wajibu wa kumtunza yule bibi mpaka kufa kwake.

*Kumbuka:* Kama mume akimtukana mkewe haifikiriwi kuwa ni sababu ya kuachana.

*Kutojali wajibu wa mume na mke*

**168.** Kama mume akikataa kulala na mke wake kwa muda mrefu, baraza litachungua yote yanayohusika na kesi hiyo na kama baraza likiona kwamba kule kutojali kulikuwa kwa makusudi basi linaweza kutoa talaka.

*Uhanithi*

**169.** Mke anaweza kupewa talaka kama ikihakikishwa:

**A.** Kwamba mume alikuwa hanithi wakati wa arusi, yaani wakati ya usiku wa arusi na siku chache zifuatazo.

**B.** Kwamba mume bila shaka amekuwa hanithi katika miaka mitano ya kwanza ya maisha ya ndoa.

**C.** Kama bwana hana kizazi haiwezi kufikiriwa kuwa ni sababu ya kuachana.

*Uzinfu usio wa kawaida*

**170A.** Desturi chafu zinazochikiza, kulawiti (kufira) au kitendo cho chote cha uzinfu usio wa kawaida zinakubaliwa kuwa ni sababu za kuachana.

**B.** Kumwaga mbegu upesi sana wakati wa kulalana inafikiriwa kuwa ni sababu ya kuachana.

*Kutojali utunzaji*

**171.** Makusudio wazi ya kutojali watu wa nyumbani mwake pamoja na matendo mabaya nafikiriwa kuwa ni sababu za kuachana. mambo madogo madogo kama vile kushindwa kupata nguo, vitu vya kike au kitoweo hazifikiriwi kuwa ni sababu za kuachana.

**172.** Kama kuachana kunatokea kwa sababu ya kutojali jamaa kabisa, baraza lina haki ya kuweka masharti juu ya uangalizi wa watoto, lakini baba hawezi kunyimwa watoto wake, lakini anaweza kunyang'anywa asiwalee.

*Kutopatana*

**173.** Kama wote mke na mume wanang'ang'ania kuachana bila ya kutoa sababu yo yote, basi talaka itatolewa lakini masharti ya kifungu cha 52 yatafuatwa.

**174.** Kama mmoja tu kati ya wawili ndiye anayeng'ang'ania kuachana bila ya kutoa sababu

za kuachana basi talaka itatolewa lakini madai hayo yasiokuwa na sababu yatafikiriwa kuwa ni kosa upande wa mng'ang'anizi na kifungu cha 54 kitafuatwa.

## MLANGO WA NNE

### *Hali ya Watoto*

#### *1. Watoto wa halali*

**175.** Watoto wasiozaliwa katika hali ya ndoa ni mali ya jamaa ya kukeni, yaani ni mali ya baba ya mama yao.

#### *11. Watoto wa kambo*

**176.** Kama mtoto anaishi na mama yake katika nyumba ya baba yake wa kambo hawezi kabisa kuwa kwa sheria mmoja wa jamaa ya baba ya kambo.

**177.** Kama baba baada ya upata watoto na mkewe wa kwanza akamwacha na kuoia mke mwingine, watoto hawa wa kwanza wanashikilia cheo chao hata kama mama wa kambo akizaa.

#### *111. Watoto wasio halisi*

##### *A. Kama baba hajulikani*

**178.** Watoto wasiozaliwa katika hali ya ndoa ni mali ya jamaa ya kukeni, yaani ni mali ya baba ya mama yao.

**179.** Kama baba ya mama ana watoto wa kiume basi huyu naye anafuata nyuma ya wale katika jamaa.

**180. A.** Kama mtoto ni msichana, basi mahari yake hupokelewa na babu yake mzaa mama au mrithi wake.

**B.** Kama babu hana watoto basi huyu mtoto asiye halisi anakuwa kama mtoto wake wa halali.

##### *B. Kama baba anajulikana: Kuhalalisha*

**181. A.** Baba ana haki ya kuhalalisha watoto wake wasio halisi wakati wote kwa kumuoa mama yao.

**B.** Kama matu akitaka kumhalalisha mtoto wake bila ya kumwoa mama yake anaweza kufanya hivyo kwa kulipa fidia Shilingi 100/- kwa baba ya msichana kabla mtoto hajaacha ziwa.

**C.** Mahala atakapoishi mtoto patakubaliwa na baba na mama wa mtoto au wakishindwa kukubaliana basi patawekwa kwa amri ya baraza. Kwa hali yo yote baba atakuwa na wajibu wa

kumtunza mtoto.

**182.** Ni mtu yele pake yake ambaye alitajwa na mama wakati wa kuzaa kuwa ndiye baba wa mtoto, ndiye mwenye haki ya kumhalalisha mtoto.

**183.** Mwanamume ambaye ametajwa na mwanamke kuwa ndiye baba wa mtoto hana budi kumkubali kwamba yeye ndiye baba wa mtoto ila akiweza kuhakikisha kwamba hakuzini na yule mwanamke.

**184.** Hata kama mwanamke alikuwa akitembea na mabwana zaidi ya mmoja, wakati alipopata mimba, yule ambaye atatajwa na mwanamke huyo, hawezi kukataa kuwa baba wa mtoto huyo.

**185.** Muda ambao mimba ingaliweza kuingia unafikiriwa kutimiza miezi miwili, yaani miezi saba kabla ya uzazi.

**186.** Kama mwanamume aliyetajwa akishikilia kukana kwamba hakupata kuzini na yule mwanamke na akileta ushahidi, basi mwanamke atatakiwa uthabiti wa madai yake kwa kutoa maelezo kamili juu ya mahala na wakati, kueleza maumbo ya mwanamume na kwa kuita mashahidi wanaojua kuhusiana kwa mwanamke na mwanamume huyo.

**187.** Kama mwanamke akimtaja mtu aliyemtia mimba naye na yeye anahakikisha kuwa maneno hayo ni ya uwongo, madai ya ubaba yatafutwa, hapo mwanamke hataruhusiwa tena kutaja mwanamume mwingine.

**188.** Kama mwanamke anaishi kinyumba na mwanamume, basi huyo bwana ndiye mwenye mimba hiyo. Kama yule bwana akitaka kukataa juu ya kuhusikana na mimba hiyo basi ni juu yake kuhakikisha madai yake.

**189.** Mtu aliyetia mimba ana wajibu wa gharama zote za mimba na za kuzaliwa kwa mtoto.

*Faini na fidia inayohusu mimba isiyo halisi*

**190.** Mwanamume ambaye anahusika na kumtia mimba mwanamke aliye chini ya umri wa miaka 21 anastahili kulipa faini isiyopungua Shilingi 80/- na kulipa fidia isiyopungua Shilling 100/- kwa baba wa binti huyo.

**191.** Faini alipwe baada ya mashauri ya baba wa mtoto kumalizika na fidia ilipwe baada ya mtoto kuzaliwa.

**192.** Ni wajibu wa baba wa mtoto na baba wa mama mtoto kuafikiana juu ya arusi na juu ya uhalali wa yule mtoto. Bidii zote lazima zifanywe kumshawishi baba wa binti akubali juu ya ufungaji ndoa na juu ya mahari, kima chake kifuate mapato ya yule wana na juu ya malipo ambayo yatatolewa kabla ya kufunga ndoa na baada ya kufunga ndoa. (Tazama kifungu cha 10B).

**193.** Ulipaji wa fidia haumpti haki yule bwana juu ya mtoto.

**194.** Inapotokea kuwa mimba inaharibika malipo yote ya faini na fidia ni lazima yatimizwe kama dalili ya mimba ikihakikishwa.

**195.** Kama baada ya mimba ya kwanza ndoa haikufungwa na halafu mwanamke akibeba tena mimba na kupata mtoto mara ya pili wa bwana yule yule, basi hakuna faini na fidia itakayolipwa.

**196.** Kama bwana akimuoja mwanamke anapobeba mimba mara ya pili, basi kwa sababu hiyo yule mtoto wake wa kwanza pia anakuwa halali.

**197.** Kama baba wa mwanamke alikubali kupokea mahari toka kwa bwana arusi wa binti yake na hivi akatoa idhini juu ya nadoa, yule bwana hana haja ya kulipa faini wala fidia.

**198.** Kama mapacha yakizaliwa faini na fidia ilipwayo ni sawa na mtoto mmoja.

**199.** Kama baba wa mtoto hana kitu, basi deni la fidia linakuwa muhimu.

**SECOND SCHEDULE**  
**MODIFICATIONS OF THE DECLARATION SET OUT IN THE FIRST SCHEDULE IN**  
**RELATION TO CERTAIN AREAS**

(a) *The area subject to the jurisdiction of the Buhaya District Council:*

Paragraph 125:

*Delete* the full stop at the end of subparagraphs A and C and *substitute* the words and full stop: "au wa mgoni".

*Paragraph 170:*

(b) *The area subject to the jurisdiction of the Kwimba District Council:*

Paragraph 11:

*Delete* the table in subparagraph A and *substitute* the following table:—

"Ng'ombe jike 1 kwa mbuzi 10 au kondoo 10

Ng'ombe jike 1 kwa Shilingi 200/-

Fahali 1 kwa Shilingi 100/-

Mbuzi 1 kwa Shilingi 20/-

Kondoo 1 kwa Shilingi 20/-".

(c) *The area subject to the jurisdiction of the Ukerewe District Council:*

Paragraph 11:

*Delete the items:–*

"Ng'ombe jike 1 kwa mbuzi 5 au kondoo 5

Ng'ombe jike 1 kwa Shilingi 100/-

Fahali 1 kwa Shilingi 90/-"

in subparagraph A and *substitute* the following new items:–

"Ng'ombe jike 1 kwa mbuzi 10 au kondoo 10

Ng'ombe jike 1 kwa Shilingi 200/-

Fahali 1 kwa mbuzi 5 au kondoo 5

Fahali 1 kwa Shilingi 100/-".

Paragraph 170:

*Delete* subparagraph B.

Paragraph 181:

Delete the full stop at the end of subparagraph B and substitute the words and full stop:

"au kabla ya miaka miwili tangu kuzaliwa mtoto: muda unayozidi ufuatwe."

#### **THE LOCAL CUSTOMARY LAW (DECLARATION) (No. 2) ORDER**

[1st August, 1963]

G.N. No. 303 of 1963

1. This Order may be cited as the Local Customary Law (Declaration) (No. 2) Order.

2. The declaration set out in the First Schedule to the Local Customary Law (Declaration) Order, 1963, is hereby directed to be the local customary law in respect of the subjects contained therein in the areas subject to the jurisdiction of the Dodoma, Iramba, Mpwapwa, Manyoni, Shinyanga, Singida and Ufipa District Councils.

#### **THE LOCAL CUSTOMARY LAW (DECLARATION) (No. 3) ORDER**

[1st August, 1963]

G.N. No. 380 of 1963

1. This Order may be cited as the Local Customary Law (Declaration) (No. 3) Order, and shall come into force on the first day of September, 1963.

2. The declaration set out in the First Schedule to the Local Customary Law (Declaration) Order, 1963 \*(9), is hereby directed to be the local customary law in respect of the subjects contained therein in the areas subject to the jurisdiction of the Kasulu, Kibondo and Kigoma District Councils.

3. Subject to the respective modifications set out in the Schedule to this Order in relation to the areas of the several District Councils, the declaration set out in the First Schedule to the Local Customary Law (Declaration) Order, is hereby directed to be the local customary law in respect of the subjects contained therein in the area subject to the jurisdiction of the Chunya, Geita, Mbeya and Tanga District Councils.

**SCHEDULE**  
**MODIFICATIONS OF THE DECLARATION SET OUT IN THE FIRST SCHEDULE TO THE LOCAL CUSTOMARY LAW (DECLARATION) ORDER, 1963, IN RELATION TO CERTAIN AREAS**

(a) The area subject to the jurisdiction of the Chunya District Council:

Paragraph 11:

*Delete* the table in subparagraph A and *substitute* the following table:—

"Ng'ombe jike 1 kwa shilingi 200/-

Fahali 1 kwa shilingi 100/-

Mbuzi 1 kwa shilingi 20/-

Kondoo 1 kwa shilingi 20/-".

(b) The area subject to the jurisdiction of the Geita District Council:

Paragraph 11:

*Delete* the table in subparagraph A and *substitute* the following table:—

"Ng'ombe jile 1 kwa mbuzi 10 au kondoo 10

Ng'ombe jike 1 kwa shilingi 200/-

Fahali 1 kwa shilingi 100/-

Mbuzi 1 kwa shilingi 20/-

Kondoo 1 kwa shilingi 20/-".

Paragraph 160:

*Insert* after the word "nusu" in the first line of subparagraph A the words and brackets: "(ila akiwa hospitalini mgonjwa au kifungoni)"

(c) The area subject to the jurisdiction of the Mbeya District Council:

Paragraph 11:

*Delete* the table in subparagraph A and substitute the following table:-

"Ng'ombe jike 1 kwa mbuzi 10 au kondoo 10

Ng'ombe jike 1 kwa shilingi 200/-

Fahali 1 kwa shilingi shilingi 150/-

Mbuzi 1 kwa shilingi 20/-

Kondoo 1 kwa shilingi 20/-".

Paragraph 160:

*Insert* after the word "nusu" in the first line of subparagraph A the words and brackets:

"ila akiwa hospitalini mgonjwa au kifungoni)".

(c) The area subject to the jurisdiction of the Mbeya District Council:

Paragraph 11:

*Delete* the table in subparagraph A and substitute the following table:-

"Ng'ombe jike 1 kwa mbuzi 10 au kondoo 10

Ng'ombe jike 1 kwa shilingi 200/-

Fahali 1 kwa shilingi 150/-

Mbuzi 1 kwa shilingi 20/-

Kondoo 1 kwa shilingi 20/-".

Paragraph 155:

*Add* the following words and fullstop:-

"Mke aadhibiwe vile pia."

- (d) The area subject to the jurisdiction of the Tanga District Council:

Paragraph 28:

Add the following words and fullstop:—

"Ikiwa mnyama amekufa, baba wa binti arusi ataleta ngozi na nyama kuwa ni uthibitisho maalum wa kifo cha mnyama aliyekufa."

ni uthibitisho maalum wa kifo cha mnyama aliyekufa."

### **THE LOCAL CUSTOMARY LAW (DECLARATION) ORDER (1967)**

(Section 9A (Sixth Schedule))

[1st July, 1967]

G.N. No. 219 of 1967

1. This Order may be cited as the Local Customary Law (Declaration) Order.
2. The declarations set out in the First, Second and Third Schedules to the Local Customary Law (Declaration) (No. 4) Order \*(10) are hereby directed to be the local customary law in respect of the subjects contained therein in the area subject to the jurisdiction of the Pangani District Council and to be binding upon Africans to whom the local customary law relates.

### **THE LOCAL CUSTOMARY LAW (DECLARATION) (No. 4) ORDER**

[1st October, 1963]

G.Ns. Nos.  
436 of 1967  
219 of 1967

1. This Order may be cited as the Local Customary Law (Declaration) (No. 4) Order.
2. The declarations set out in the First, Second and Third Schedules to this Order are hereby directed to be the local customary law in respect of the subjects contained therein in the areas subject to the jurisdiction of the Chunya, Dodoma, Kasulu, Kibondo, Kigoma, Kondoa Manyoni, Maswa, Mbeya, Mpwapwa, Ngara, Njombe, Shinyanga, Singida, Songea, Ufipa, Ukerewe and Pangani District Councils.

### **FIRST SCHEDULE SHERIA ZA ULINZI**

- (1) Ulinzi huwa wa namna hizi zifuatazo:

- (a) ulinzi wa watoto waliofiwa na baba wakati wadogo;
- (b) ulinzi wa mrithi ambaye hayupo wakati wa kurithi;
- (c) ulinzi wa mtu ambaye hawezi kujitegemea kwa sababu ya umaskini au wazimu;
- (d) ulinzi wa mke na mtoto wa mtu anayekwenda safari ndefu.

*Ulinzi wa watoto:*

- (2) Mlinzi wa watoto wadogo walifiwa na baba atawekwa na baraza la ukoo.
- (3) Ikiwa mtoto wa kiume wa kwanza ni mtu mzima, ndiye atakayewekwa kuwa mlinzi wa watoto wadogo wenzake akiwa yeye ni mwenye akilina ana tabia nzuri.
- (4) Ikiwa mtoto wa kiume wa kwanza hafai, atawekwa ndugu mwingine wa ukoo wa marehemu.
- (5) Kama baba aliyekufa alikuwa na wake wengi, kila mtoto wa kiume wa kwanza (akiwa ni mtu mzima na akifaa) toka kila nyumba, atafikiriwa kwanza kuwa mlinzi wa wadogo zake katika nyumba yake.
- (6) Mlinzi anapowekwa huelezwa na baraza la ukoo wajibu wake wa ulinzi. Kama hakuelezwa, ni juu yake kupata maelezo ya wajibu wake toka baraza la ukoo.
- (7) Mama mjane akikubali kurithiwa na ndugu mmoja wa marehemu na amekubaliwa na baraza la ukoo, yeye ndugu ndiye atakayekuwa mlinzi wa watoto wa marehemu.
- (8) Ikiwa mlinzi hatimizi wajibu wake, baraza la ukoo lina uwezo wa kumwondoa na kuweka mwingine badala yake, kwa kufuata madai ya mama au ya ndugu yeyote wa ukoo wa kiume.
- (9) Mlinzi hawezi kuuza ardhi wala mimea ya daima iliyo chini ya ulinzi wake.
- (10) Mlinzi hapati mshahara au malipo maalum kwa kazi yake ya ulinzi, lakini kwa kawaida hukaribishwa kwa vyakula na vinywaji.
- (11) Kazi ya mlinzi ni kuwatunza watoto na mama yao, na kuangalia mali yao isipotee wala isiharibike.
- (12) Mlinzi ana wajibu wa kuongoza kazi ya kilimo, lakini ashauriane na mama ikiwa yupo nyumbani kwa watoto.
- (13) Mlinzi anaweza kumwoza mtoto wa kike, lakini katika shauri hili kwanza akubaliane na mama.
- (14) Mlinzi atashughulika na mambo yote ya nje yanayohusu nyumba ile, kwa mfano: kusimamia mashauri, malipo ya kodi na ushuru, ada ya shule, kuhudhuria minada ya mifugo, n.k.

(15) Mlinzi ana wajibu kuangalia mali ya watoto walio chini ya ulinzi wake, bila kuichanganya na mali yake: yaani, mali ya watoto lazima yajulikane kwazi.

(16) Mazao ya mashambani yatatumika nyumbani kwa manufaa ya watu wa nyumbani.

(17) Mazao ya mifugo kama maziwa na samli yatatumika vile vile nyumbani kwa manufaa ya watu wa nyumbani.

(18) Wanyama watakozaliwa na mifugo pia ni mali ya watoto.

(19) Mlinzi anaweza kuchinja, kuuza au kubadilisha wanyama kwa faida au mahitaji ya nyumbani.

(20) Kama marehemu alikuwa na wake wawili au zaidi, na hakuna mjane aliyekubali kurithiwa, baraza la ukoo linaweza kuweka mlinzi mmoja kwa nyumba zote.

(21) Mashtaka au madai juu ya ulinzi yanaweza kuletwa na mama wa watoto, ndugu mwingine, na hata na watoto wenyewe watakapokua.

(22) Mashauri kama haya yasipokelewe na baraza la hakimu ikiwa hayakufikishwa kwanza kwa baraza la ukoo.

(23) Mlinzi akifa, atawekwa mwingine na baraza la ukoo.

(24) Mrithi wa kwanza atakapofikia umri wa miaka 21 au atakapooa (akioa kabla ya kufikia umri huu) na akifaa, anawekwa na baraza la ukoo kuwa mlinzi wa watoto wadogo wenzake.

(25) Watoto wengine wengine vile vile watatoka katika ulinzi wakapofikia umri wa miaka 21 au watakapooa au kuolewa.

(26) Ikiwa hayupo ndugu yeyote wa ukoo wa watoto, baraza la ukoo wa mama litaweka mlinzi waukoo wake.

(27) Ikiwa hakuna ndugu kabisa, baraza la hakimu kufuata maombi ya mtu yeyote linaweza kuweka mtu baki kuwa mlinzi wa watoto.

*Ulinzi wa mrithi asiyekuwapo:*

(28) Ikiwa mmoja wa warithi hayupo wakati wa kurithi, ndugu mwingine wa ukoo wake huwekwa kuangalia mali mpaka mrithi atakaporudi.

(29) Mlinzi wa mrithi asiyekuwapo anawekwa na baraza la ukoo, na anapowekwa huelezwa na baraza la ukoo wajibu wake wa ulinzi. Kama hakuelezwa, ni juu yake kupata maelezo ya wajibu wake toka baraza la ukoo.

(30) Mkubwa kati ya warithi waliopo atafikiriwa kwanza na baraza la ukoo, na ikiwa kwa maoni yao ni mwenye akili ya kutosha na ana tabia nzuri, yeye ndiye atakayewekwa kuwa

mlinzi wa mrithi asiyekuwapo.

(31) Ikiwa warithi wote hawapo baraa la ukoo litaweka mlinzi mmoja wa ukoo ule kuangalia mali yote ya urithi.

(32) Mlinzi wa marithi asiyekuwapo akipoteza au akiharibu mali ya mrithi anaweza kudaiwa.

(33) Mlinzi hawezi kuchanganya mali ya urithi pamoja na mali yake: yaani, mali ya mrithi lazima yajulikane wazi.

(34) Mlinzi hawezi kutumia mwenyewe mali ya mrithi asiyokuwapo.

(35) Mazao ya mali ya mrithi asiyekuwapo yanaweza kuuzwa kwa shida za nyumbani kwa mrithi: yakiuzwa kwa wingi ni mali ya mrithi.

(36) Mlinzi wa mrithi asiyekuwapo hapati mashahra wu malipo maalum kwa kazi anayofanya.

(37) Baraza la ukoo linaweza kumwondoa mlinzi ikiwa hatimizi wajibu wake, na kuweka mwingine, kwa kufuata madai au mashaka ya ndugu yeyote wa mrithi asiyekuwapo.

(38) Ikiwa hayupo mtu yeyote wa ukoo wa mrithi asiyekuwapo, baraza la hakimu kufuata taarifa ya mtu yeyote linaweza kuweka mtu baki kuwa mlinzi kwa mpango unayofaa.

*Ulinzi wa mtu ambaye hawezi kujitegemea:*

(39) Mtu ambaye hawezi kujitegemea kwa sababu ya umaskini au wazimu huwekwa chini ya ulinzi wa mtu wa ukoo wake.

(40) Mlinzi huyu anawekwa na baraza la ukoo, na wajibu wake ni sawa kama wa mlinzi wa mtoto.

(41) Kama mtu ambaye hawezi kujitegemea kwea sababu ya umaskini au wazimu huwekwa chini ya ulinzi wa mtu wa ukoo wake.

*Ulinzi wa jamaa na mali ya mtu anayesafiri:*

(42) Ikiwa mume anaondoka kwa safari ndefu, anaweza kuchagua mlinzi kuangalia mkewe, watoto na mali yake.

(43) Mlinzi atasimamia mifugo na kilimo.

(44) Mlinzi ataangalia mambo yote ya nje yanayohusu nyumba ile, ambayo yangaliangaliwa na mume mwenyewe.

(45) Mlinzi atashughulika na shida zote za watu wa nyumbani kwa msafiri.

(46) Mke hawezi kuhama toka mji wa mume wake bila ruhusa ya mlinzi.

(47) Mke wa msafiri anaweza kufumaniwa na mlinzi.

(48) Mlinzi anaweza kufungua shauri la ugoni barazani badala ya mume.

(49) Ni mume tu anayeweza kumwondoa mlinzi.

(50) Mlinzi aiifa au akihama kabisa na mume hawezi kuarifiwa, baraza la ukoo linaweza kuweka mlinzi mwingine.

(51) Mlinzi hawezi kudai cho chote kwa kazi yake ya ulinzi.

(52) Mlinzi akikosa katika wajibu wake wa kuangalia mali ya msafiri na kutunza mkewe na watoto wake, anaweza kuitwa na kuonyea na bareaza la ukoo.

(53) Akiendelea na makosa yake, mlinzi anaweza kuitwa shaurini na mke au ndugu yeyote wa msafiri katika bareaza la hakimu.

## **SECOND SCHEDULE SHERIA ZA URITHI**

(1) Urithi hufuata upande wa ukoo wa kiume.

(2) Asimamiaye mazishi ni kaka wa marehemu aliye mkubwa au, kama hakuna kaka ndugu mwingine wa kiume ailiye karibu.

(3) Ikiwa marehemu alikuwa mtoto, msimamizi ni babaye au mlinzi wake.

(4) Matumizi ya mazishi na matanga hutoka katika mali ya marehemu, lakini ikiwa marehemu hakuacha mali, hushughulika msimamizi.

(5) Msimamizi wa kugawanya urithini kaka wa marehemu aliye mkubwa, au babaye, na kama kaka au baba hakuna, ni ndugu wa kiume mwingine akisaidiwa na baraza la ukoo. Kama hakuna ndugu wa kiume, asimamie ndugu wa kike.

(6) Baada ya matanga watu wa ukoo hucusanyika na wanahesabu urithi na kushauriana juu ya madai na madeni yote aliyokuwa nayo marehemu.

(7) Wenye kudai huitwa na hutaja madai yao.

(8) Wadeni wa marehemu hutangaziwa vile vile na utaratibu wa kulipa hutengenezwa.

(9) Baada ya hesabu madeni na madai, mpango wa kugawanya urithi unakubaliwa.

(10) Ikiwa mdai ye yote hataji madai yake akiwepo katika mkutano, madai yake hayapokelewi baadaye.

(11) Ikiwa mali ya urithi haitoshi kulipa madeni yote ya marehemu, madeni ya muhimu hulipwa kwanza na madeni mengine yanalipwa kwa sehemu kadiri iwezekanavyo.

- (12) Baki ya madeni humalizwa na warithi toka mali yao wenyewe.
- (13) Madai na madeni ya marehemu hurithiwa.
- (14) Baada ya mpango kutengenezwa, mali ya urithi kwa kawaida hugawanywa upesi.
- (15) Kama hakuna matatizo, mgawanyo wa mali unafanyiwa katika siku chache baada ya matanga na kwa vyo vyote muda hauzidi mwezi mmoja.
- (16) Kama mrithi mmoja anataka kuchukua sehemu yake, mgawanyo hufanyiwa mara.
- (17) Kama warithi wote hawana haraka hakuna lazima ya kugawanya upesi.
- (18) Ikiwa wadai wengine hawakuwepo au hawakupata habari wakati wa matanga, watamdai mrithi wa kwanza, na ikiwa urithi umekwisha gawanywa, mrithi wa kwanza atasaidiwa kuwalipa na warithi wenzake kadiri ya sehemu ya urithi waliyopata.
- (19) Mrithi wa kwanza wa marehemu ni mtoto wa kiume wa kwanza toka nyumba ya kwanza. kama marehemu hakuacha mtoto wa kiume katika nyumba ya kwanza, mtoto wake wa kiume aliyezaliwa kwanza toka nyumba yoyote atakuwa mrithi wa kwanza.
- (20) Wanawake wanaweza kurithi, isipokuwa ardhi ya ukoo, ambayo wanaweza kuitumia bila kuiuza wakati wa uhai wao. Lakini, kama hakuna wanamume wa ukoo ule, wanamke anaweza kurithi ardhi hii kabisa.
- (21) Urithi una vyeo vitatu: cheo cha kwanza, cheo cha pili na cheo cha tatu.
- (22) Mwenye cheo cha kwanza ni mrithi wa kwanza na yeye anapata sehemu iliyo kubwa ya urithi kupita sehemu yo yote ya warithi wenzake.
- (23) Wenye cheo cha pili watapata kila mmoja sehemu ya urithi iliyo kubwa kuliko sehemu ya wale walio katika cheo cha tatu.
- (24) Ikiwa marehemu amewagawia warithi wake sehemu ya mali yake wakati alipokuwa bado hai, sehemu hii inahesabiwa katika mgawanyo wa mali baada ya kifo chake.
- (25) Kwa kawaida, cheo cha kwanza ni cha mtoto wa kiume wa kwanza, cheo cha pili ni cha watoto wa kiume wengine, na cheo cha tatu ni cha watoto wa kike.
- (26) Kama marehemu ameacha watoto wa kiume, au wa kiume pamoja na wa kike, hao ndio watakaorithi mali yake yote.
- (27) Mjane hana fungu lake katika urithi ikiwa marehemu aliacha jamaa na ukoo wake: fungu lake in kutunzwa na watoto wake, jinsi alivyowatunza. (Fungu la mjane mgumba lililotajwa katika kifungu 77, Sheria zinazohusu Hali ya Watu \*(11), halihesabiwi katika urithi wa mumewe).
- (28) Mume hawezi kurithi mali ya mke ake katika urithi usio na wosia-ila kama mke

hakuacha watoto na hakuacha kabisa mtu yeyote wa ukoo wake.

(29) Kama hakuna watoto wa kiume, mtoto wa kike mkubwa toka nyumba ya kwanza ni mrithi wa kwanza. Ila, kama kuna ndugu wa kiume, yule ndugu aliye badala ya baba ndiye atakayepokea mahari ya watoto wa kike watakapolewa.

(30) Utaraibu wa mgawayo wa urithi kati ya warithi wa cheo cha pili na cha tatu hufuatana na umri wao-yaani, wakubwa watapata zaidi ya wadogo na wa kiume wapate zaidi ya wa kike.

MFANO-Urithi uliyokuwa wa ng'ombe peke yake:

Jumla ya ng'ombe 24.

Cheo I - Mtoto wa kiume - Umri 23-atapata ng'ombe 9.

Cheo II - Mtoto wa kiume - Umri 20-atapata ng'ombe 5.

Mtoto wa kiume - Umri 14-atapata ng'ombe 4.

Cheo III - Mtoto wa kike - Umri 25-atapata ng'ombe 3.

Mtoto wa kike - Umri 22-atapata ng'ombe 2.

Mtoto wa kike - Umri 18-atapata ng'ombe 1.

(31) Kama mtoto ni mmoja tu peke yake, yeye atarithi mali yote-isipokuwa kama yeye ni mwanamke hawezi kurithi ardhi ya ukoo, ambayo ataweza kuitumia bila kuiza wakati wa uhai wake. Hata hivyo, kifungu cha 20 kifuatwe.

(32) Ikiwa watoto wa kike wapo, ila hakuna watoto wa kiume walio hai au walioacha watoto wao, hakuna cheo cha pili.

(33) Ikiwa watoto wa kiume wapo, ila hakuna watoto wa kike walio hai au walioacha watoto wenyewe, hakuna chao cha tatu.

(34) Wajukuu watarithi cheo cha baba au mama yao katika urithi wa babu ikiwa baba au mama yao amekufa kabla ya babu.

(35) Lakini kama wajukuu ni watoto wa mtoto wa kiume wa kwanza, wao hawatapata cheo cha kwanza ikiwa babu yao aliacha mtoto wa kiume mwingine toka nyumba ile.

(36) Ikiwa ni hivyo, mtoto wa kiume mkubwa aliyebaki ndiye atakayekuwa mrithi wa kwanza, na atakayepata cheo cha kwanza katika urithi wa babaye.

(37) Wajukuu wale halafu watatangulia katika cheo cha pili.

(38) Mtoto asiye halai (yaani, aliyekwenda ujombani) atarithi katika urithi wa mama yake; na kama mama yake alikufa bila kuacha watoto halali na kabla ya babu, mtoto huyu asiye halai

atarithi cheo cha mama katika urithi wa babu.

(39) Kama mama wa mtoto asiye halali hakuwa na mtoto mwingine isipokuwa mama wa mtoto huyu na kama mama amekufa, mtoto huyu asiye halali atakuwa mrithi halali wa babu yake.

(40) Kama babu wa mtoto asiye halali hakuwa na mtoto mwingine isipokuwa maam wa mtoto huyu na kama mama yake kwa kufuata umri wake pamoja na watoto wale wengine.

(41) Watoto waliohalalishwa kwa ndoa ya wazazi wao wanahesabiwa kama watoto walizaliwa halali, isipokuwa mtoto aliyehalalishwa kwa ndoa hawezi kutangulia katika urithi ingawa alizaliwa kwanza, ikiwa kuna mtoto wa kiume mwingine wa nyumba ingine ambaye mama yake aliolewa na marehemu kabla ya mama wa mtoto aliyehalalishwa.

(42) Watoto waliohalalishwa kwa malipo maalum (yaliyotajwa katika kifungu 181 cha Sheria zinazohusu Hali ya Watu) \*(12) watarithi nyuma ya watoto waliozaliwa na katika cheo cha pili kama ni mwanamume na katika cheo cha tatu kama ni mwanamke.

(43) Watoto wasio halali hawawezi kurithi upande wa kiume katika urithi usio na wosia.

(44) Ikiwa marehemu hakuacha watoto wala wajukuu, watarithi kaka na dada zake waliochangia bab na mama-kaka wa kwanza atakuwa na cheo cha kwanza, kaka mwingine na cheo cha pili na dada cheo cha tatu.

(45) Ikiwa marehemu hakuacha kaka wala dada waliochangia baba na mama, watoto wa kaka au dada waliochangia baba na mama watarithi mali ya marehemu huyo kabla ya kaka au dada wa kuumeni, yaani wa baba mmoja ila mama mbali mbali.

(46) Ikiwa hakuna kaka au dada wowote, watarithi watoto wao.

(47) Ikiwa marehemu hakuacha kaka au dada wala watoto wao, atarithi babaye.

(48) Ikiwa baba mzazi amekwisha kufa, watarithi baba wadogo na shangazi.

(49) Ikiwa hakuna baba au shangazi, watarithi ndugu wengine wa kuumeni.

(50) Ikiwa hakuna ndugu kabisa, mume atarithi mali ya mke, na mke atarithi mali ya mumewe.

(51) Warithi au mrithi wa mume watakuwa na wajibu wa kumtunza mjane.

(52) Kama hakuna mrithi, mali ya marehemu itachukuliwa na Serikali ya Mtaa.

(53) Mkuu wa ukoo akifa, mkuu mpya huchaguliwa na baraza la ukoo.

### **THIRD SCHEDULE SHERIA ZA WOSIA**

- (1) Wosia maana yake ni kauli inayotolewa na mtu wakati wa uhai wake kwa hiari yake kuonyesha nia yake jinsi gani angependa mali yake ingawanye baada ya kufa kwake.
- (2) Wosia unaweza kuwa wa namna bili; wosia wa mdomo na wosia uliyoandikwa.
- (3) Wosia uhsuhudiwe na mashahidi maalum ambao lazima wawepo wakati mmoja.
- (4) Mashahidi hawa huchaguliwa na mwenye kutoa wosia mwenyewe.
- (5) Zaidi ya mashahidi maalum, mkewe (mwenyewe kutoa wosia) au wake zake waliopo nyumbani lazima washuhudie vile vile.
- (6) Watu wanaorithi kitu ch chote kutoka wosia hawawezi kuhesabiwa kama mashahidi kushuhudia wosia ule-isipokuwa mke au wake wa mwenye kutoa wosia.
- (7) Wosia hauna nguvu ikiwa mwenye kutoa wosia amepungukiwa akili kwa sababu ya wazimu, ugonjwa, ulevi au hasira ya ghafula.
- (8) Wosia hauwezi kupingwa kwa sababu hizi, isipokuwa na mtu anayehusika.
- (9) Kama mwenye kutoa wosia alikuwa na akili ya kutosha itategemea ushahidi wa wale mashahidi maalum na wa mke wake au wake zake, na hata ushahidi mwingine kama upo.
- (10) Kama mashahidi hawapatani, itakuwa juu ya baraza kupima na kukubali ushahidi utakaofaa.

*Wosia wa mdomo:*

- (11) Wosia wa mdomo ushuhudiwe na mashahidi wasiopungua wanne-yaani, watu wa ukoo wasipungue wawili na watu baki wasipungue wawili.
- (12) Wosia wa mdomo unaweza kubadilishwa au kufutwa kwa kufuata ule utaratibu uliyoelezwa katika vifungu vya 4, 5, na 11.
- (13) Mashahidi wa wosia wa kwanza, ikiwa wapo na wanaweza kupatikana, washuhudie.
- (14) Ikiwa mashahidi wamekufa wote kabla ya mwenye kutoa wosia hajafa, wosia hauwezi kukubaliwa, na urithi utagawanyika kufuata mpango wa urithi usio na wosia.
- (15) Mwenyewe kama anataka kuusia mali yake, lazima atoe wosia mpya.
- (16) Ikiwa mashahidi wengine wamekufa, lakini walio hai bado hawapungui wawili, wosia utafuatwa.

*Wosia wa kuandika:*

- (17) Wosia wa kuandika usiandikwe na kalamu ya risasi: unaweza kupigwa chapa au kuandikwa na wino au na kalamu isiyofutika.

(18) Tarehe ya wosia uliyoandikwa lazima iwekwe.

(19) Wosia uliyoandikwa ushuhudiwe na mashahidi wanaojua kusoma na kuandika-yaani mashahidi wasipungue wawili (mmoja wa ukoo na mmoja mtu baki) ikiwa mwenye wosia anajua kusoma na kuandika, na wasipungue wanne Swahili wa ukoo na wawili watu baki)-ikiwa mwenyewe hajui kusoma na kuandika.

(20) Mwenyewe atie sahihi yake katika wosia uliyoandikwa ikiwa anajua kusoma na kuandika: ikiwa haui, aweke alama ya kidole chake cha gumba cha kulia.

(21) Mashahidi washuhudie sahihi au alama ya mwenye kutoa wosia, na wenyewe watie sahihi zao katika wosia.

(22) Karatasi yenye maandiko ya wosia isijazwe wala isiongezwe na mtu ye yote.

(23) Wosia uliyoandikwa unaweza kubadilishwa au kufutwa kwa kutengeneza wosia uliyoandikwa mwingine.

(24) Wosia uliyoandikwa unaweza kuandikishwa au kuwekwa barazani, lakini si lazima ila hiari.

(25) Uandikishaji au uwekaji huu haukubaliwi kuwa uhtibitisho wa wosia ikiwa masharti yote ya sheria yalilotajwa mbele hayakutimizwa.

(26) Mtu aliye chini ya umri wa miaka 21 hawezi kutoa wosia wa mdomo wala wosia uliyoandikwa.

(27) Wosia uliyoandikwa hauwezi kufutwa au kubadilishwa na wosia wa mdomo; lakini wosia wa mdomo unaweza kubadilishwa au kufutwa na wosia uliyoandikwa, wakihudhuria mashahidi wote walio hai na wanaoweza kupatikana walioshuhudia wosia wa mdomo.

*Kuhusu wosia za aina zote mbili:*

(28) Mwenye kutoa wosia anaweza kuusia mali yake yote bila kutaja kila kitu atakachokuwa nacho wakati wa kufa kwake.

(29) Ikiwa mwenye kutoa wosia anausia sehemu tu ya mali atakayekuwa nayo, baki itagawanywa kufuata masharti ya urithi usio na wosia-isipokuwa kama mtu anayeusiwa angestahili kurithi kufuata mpango wa urithi usio na wosia, mali anayoachiwa katika wosia itahesabiwa wakati wa kugawanywa baki.

(30) Sababu zinazohesabiwa ni nzito za kuwezesha mwenye kutoa wosia kumnyima marithi usio na wosia-isipokuwa kama mtu anayeusiwa angestahili kurithi kufuata mpango wa urithi usio na wosia, mali anayoachiwa katika wosia itahesabiwa wakati wa kugawanywa baki.

(31) Sababu zinazohesabiwa ni nzito za kuwezesha mwenye kutoa wosia kumnyima mrithi urithi wake ni hizi zifuatazo:–

- (i) Ikiwa mrithi amezini na mke wa mwenye kutoa wosia;
- (ii) Ikiwa mrithi amejaribu kumua, amemshambulia au amemdhuru vibaya mwenye kutoa au mama mzazi wake (yaani, wa mrithi);
- (iii) Ikiwa mrithi, bila sababu ya haki, hakumtunza mwenye kutoa wosia katika shida ya njaa au ya ugonjwa.

(32) Ikiwa mrithi ameharibu mali ya mwenye kutoa wosia, uharibifu wake utahesabiwa katika kukisia sehemu ya urithi atakayostahili kupata.

(33) Dini haihesabiwi kama sababu ya kumnyima mtu urithi.

(34) Mtu atakaye kumnyima mrithi urithi wake lazima aseme wazi katika wosia wake na aeleze sababu zake.

(35) Mrithi aliyenyimwa urithi wake apate nafasi kujitetea mbele ya mwenye kutoa wosia au mbele ya baraza la ukoo.

(36) Mtu ambaye alijua kwamba amenyimwa urithi na ambaye hakushughulika kujitetea hawezi kupinga wosia baada ya kufa mwenye kutoa wosia.

(37) Ikiwa mtu aliyenyimwa urithi hakuwa na habari kabla ya kifo cha mwenye kutoa wosia, atasikilizwa na baraza la ukoo-litakalokuwa na haki ya kukubali au kukataa madai yake.

(38) Kama inaonekana kwamba mtu amenyimwa urithi katika wosia pasipokuwepo sababu ya haki, wosia unavunjwa na urithi utagawanyiwa kufuata mpango wa urithi usio na wosia.

(39) Shauri kama hili huamuliwa na baraza la ukoo, ila mtu anayehusika asiporidhika anaweza kufika barazani kwa hakimu.

(40) Mume anaweza kumwusia mkewe mazao au mapato ya mali yake mpaka aolewe tena au afe.

(41) Kama mume anao wake wengi anaweza kuwusia watoto (siyo kuwapa wengine na wengine kuwanyima) mazao au mapato ya mali yake kwa kufuata vyeo vya urithi usio na wosia, mpaka waolewe tena au wafe.

(42) Mjane asiye na watoto anaweza kuusiwa hata mazao au mapato ya ile sehemu ya mali aliyochuma na mumewe (na aliyotajwa katika kifungu 77 ya Sheria zinazohusu Hali ya Wat)  
\*(13) ambayo ingalirudi kuumeni.

(43) Mtu anaweza kumrithisha rafiki yake vitu au vyombo vyake alivyokuwa akivitumia mwenyewe binafsi au sehemu ya urithi isiyozidi fungu la kila mrithi halisi.

## **THE LOCAL CUSTOMARY LAW (DECLARATION) (No. 5) ORDER**

[1st October, 1963]

G.N. No. 474 of 1963

1. This Order may be cited as the Local Customary Law (Declaration) (No. 5) Order.
2. The declaration set out in the First, Second and Third Schedules to the Local Customary Law (Declaration) (No. 4) Order, 1963 is hereby directed to be the local customary law in respect of the subjects contained therein in the areas subject to the jurisdiction of the Handeni, Kahama, Meru, Mwanza and Rungwe District Councils \*(14).
3. Subject to the respective modifications set out in the Schedule to this Order in relation to the areas of the several District Councils, the declaration set out in the First Schedule to the Local Customary Law (Declaration) Order, is hereby directed to be the local customary law in respect of the subjects contained therein in the areas subject to the jurisdiction of the Kilimanjaro, Maswa, Meru and Songea District Councils \*(15).

**SCHEDULE**  
**MODIFICATIONS OF THE DECLARATION SET OUT IN THE FIRST SCHEDULE TO THE**  
**LOCAL CUSTOMARY LAW (DECLARATION) ORDER, 1963, IN RELATION TO CERTAIN**  
**AREAS**

- (a) The area subject to the jurisdiction of the Kilimanjaro District Council:

Paragraph II:

*Delete* the table in subparagraph A and *substitute* the following table:—

"Ng'ombe kwa shilingi 200/-

Mbuzi 1 kwa shilingi 50/-

Kondoo 1 kwa shilingi 30/-".

Paragraph 28:

*Delete* the fullstop and add the following words and fullstop:—

"Kama mahari ni ng'ombe na kama mnyama mmoja akifa baada ya kupokelewa na baba wa bibi arusi kabla mahari yote haijamalizwa, au akipotea, bwana arusi hana haja kutafuta mnyama mwingine.".

Paragraph 80B:

*Delete* the fullstop and add the following words and fullstop:—

"Ikiwa mke hakuacha watoto walio hai, lakini ikiwa mke ameacha watoto walio hai

malipo ya mahari yamalizwe".

Paragraph 83:

*Delete* the words in the third line "pamoja na watoto" and *substitute* the words "lakini sio mazao ya wanyama".

Paragraph 125:

*Insert* in the third line, between the words and figures "kifungu cha 52" and the fullstop, the words and brackets "kama ikithibitika kwamba baba (au mrihi wake) alihusikana na uasi wa mke.".

Paragraph 170:

*Delete* subparagraph B.

(b) The area subject to the jurisdiction of the Maswa District Council:

"Ng'ombe jike 1 kwa mbuzi 10 au kondoo 10

Ng'ombe jike 1 kwa shilingi 200/-

Fahali 1 kwa shilingi 100/-

Mbuzi 1 kwa shilingi 20/-

Kondoo 1 kwa shilingi 20/-".

Paragraph 62:

*Delete* the words "hairudishwi naye (mjane) ana uhuru kwenda kuishi na ndugu zake", and substitute the following words:

(c) The area subject to the jurisdiction of the Meru District Council:

Paragraph II:

*Delete* the table in subparagraph A and *substitute* the following table:

"Ng'ombe dume wa mafuta 1 kwa shilingi 300/-

Ng'ombe jile mkubwa 1 kwa shilingi 200/-

Ng'ombe wengine wote kila mmoja shilingi 200/-

Beberu wa mafuta 1 kwa shilingi 200/-

Beberu mdogo 1 kwa shilingi 60/-

Mbuzi wa kuzaa 1 kwa shilingi 30/-

Kondoo wa mafuta 1 kwa shilingi 120/-

Kondoo jike 1 kwa shilingi 40/-".

*Paragraph 28:*

Delete and substitute the following new paragraph:

"Kama mahari ni ng'ombe na kama mnyama mmoja akifa baada ya kupokelewa na baba wa bibi arusi kabla mahari yote haijamalizwa, au akipotea, bwana arusi hana haja kutafuta mnyama mwingine."

*Paragraph 104:*

*Delete* the words "naye ana" in the second line and *substitute* the words "hana".

(d) The area subject to the jurisdiction of the Songea District Council:—

*Paragraph II:*

*Delete* the table in subparagraph A and *substitute* the following table:—

"Ngombe 1 kwa shilingi 250/-

Mbuzi 1 kwa shilingi 40/-

Kondoo 1 kwa shilingi 20/-".

*Paragraph 170:*

*Delete* subparagraph B.

### **THE LOCAL CUSTOMARY LAW (DECLARATION) (No. 7) ORDER**

[1st January, 1964]

G.N. No. 604 of 1963

1. This Order may be cited as the Local Customary Law (Declaration) (No. 7) Order.
2. The declaration set out in the First Schedule to the Local Customary Law (Declaration) Order, 1963, is hereby directed to be the local customary law in respect of the subjects contained therein in the areas subject to the jurisdiction of the Biharamulo, Mpanda, North Mara, Tabora and Ulanga District Councils \*(16).

### **THE LOCAL CUSTOMARY LAW (DECLARATION) (No. 8) ORDER**

[1st January, 1964]

G.N. No. 605 of 1963

1. This Order may be cited as the Local Customary Law (Declaration) (No. 8) Order.
2. The declaration set out in the First, Second and Third Schedules to the Local Customary Law (Declaration) (No. 4) Order, 1963, is hereby directed to be the local customary law in respect of the subjects contained therein in the areas subject to the jurisdiction of the Biharamulo, Buhaya, Kwimba, Mpanda, Tabora, Tanga and Ulanga District Councils.

## **RULES**

### **THE ARREST, SEIZURE AND POSSESSION (BAILIFFS AND FEES) RULES**

(Section 4)

[1st July, 1964]

G.Ns. Nos.  
299 of 1964  
106 of 1984  
162 of 2000

#### **1. Citation**

These Rules may be cited as the Arrest, Seizure and Possession (Bailiffs and Fees) Rules.

#### **2. Rules not to apply to primary courts**

These Rules shall not apply to primary courts.

#### **3. Interpretation**

In these Rules, unless the context otherwise requires—

**"bailiff"** means an officer of the Government employed as a bailiff and any person appointed under rule 4 to serve as a bailiff;

**"court broker"** means any person employed as a court broker under the provisions of the Attachment and Sale (Brokers and Fees) Rules;

**"Registrar"** includes a Deputy Registrar and a District Registrar; and

**"warrant"** means a warrant issued in accordance with the rules contained in the First Schedule to the Civil Procedure Code \*(17)—

- (a) for the seizure of a specific movable, under Order XXI, rule 29;

- (b) for the delivery of possession of immovable property, under Order XXXI, rule 34; or
- (c) for the arrest of a judgement debtor, under Order 21, rule 36.

### **EXECUTION OF WARRANTS (ss 4-7)**

#### **4. Appointment of *ad hoc* bailiffs**

Where there is no bailiff attached to the court or where the execution of a warrant by the court bailiff would involve undue delay the Registrar or the magistrate, may appoint any person to serve as bailiff for the purpose of executing any particular warrant:

Provided that where there is a court broker appointed for the area in which the warrant is to be executed, the Registrar or the magistrate, shall appoint such court broker as the bailiff to execute the warrant unless he is satisfied that there is some sufficient reason for not employing him.

#### **5. Appointment to be recorded**

Where the Registrar or the magistrate appoints a person under recorded the provisions of rule 4 to serve as a bailiff to execute a warrant he shall record such appointment in the record of the proceedings in which the warrant is issued.

#### **6. Detention of person arrested**

Where a bailiff has arrested a person pursuant to a warrant and it is impracticable for such person to be produced forthwith before the court which issued the warrant, the bailiff shall deliver such person to the officer in charge of a civil prison, where such person shall be detained until arrangements are made by the bailiff for his production before the court:

Provided that no person shall be so detained later than noon on the first day, other than a Sunday or public holiday, after he is received in the prison.

#### **7. Possession of goods seized**

Where a bailiff has seized any movable property pursuant to a warrant and it is impracticable for such movable property to be delivered forthwith as directed by the warrant the bailiff shall make such arrangements for its safe storage as he may deem fit:

Provided that where a bailiff cannot effect delivery within three days, he shall thereupon seek the directions of the court which issued the warrant.

### **FEES AND EXPENSES (ss 8-10)**

#### **8. Fees and charges Schedule**

- (1) The fees, charges and allowances prescribed in the Schedule to these Rules shall be

payable for the execution of a warrant:

Provided that if in his opinion there are special circumstances, the Registrar or magistrate, may allow special fees, charges or allowances in excess of those prescribed.

(2) The fees, charges and allowances payable under this rule shall be collected by the court and, subject to the provisions of rule 9, paid to the bailiff.

**9. Where warrant executed by Government**

Where a warrant is executed by a bailiff who is an officer of the Government, the fees, charges and allowances prescribed in the Schedule to these Rules shall be leviable and credited as court fees in addition to any court fees payable.

**10. Deposit**

When application is made for issue of a warrant, the Registrar or the magistrate may, before issuing the warrant, require the party applying for the warrant to deposit such sum as he may consider reasonable to meet the fees, charges and allowances payable under these Rules for the execution of such warrant.

**SCHEDULE  
FEES**

(Rule 8)

	<i>Shs.</i>	<i>Cts.</i>
1. For executing a warrant, for each day or part thereof necessarily occupied .....	50	00
2. For attending to execute a warrant, where the warrant cannot be executed because the person to be arrested or the movable property to be seized cannot be found after diligent inquiries.....	30	00
3. For attending to execute a warrant, where the decretal amount and costs are tendered to the bailiff .....	40	00
4. As travelling allowance, where the execution of a warrant involves travelling more than 3 miles from the place of business of the bailiff .....	5	00
		per mile or the actual cost, whichever is the less

5. As allowance for meals taken, in the course of the execution, outside the city, municipality or township where the bailiff resides ..... the actual cost but not exceeding Shs. 25/- for breakfast, Shs. 80/- for lunch and Shs. 90/- for dinner.
6. As hotel allowance, where it is necessary for a bailiff to spend a night outside the city, municipality or township where he resides, per night ..... the actual cost, but not exceeding Shs. 125/- per night.
7. As allowance for the transport, meals and accommodation of a person arrested by a bailiff and while in his custody, where necessary ..... the actual cost, but not exceeding the allowances prescribed in items 5 and 6 above.
8. For keeping possession of any movable property seized pursuant to a warrant.  
For every Shs. 100/- of the estimated value of the property and for each day or part thereof, after the first 3 days ..... Shs. 5.00 but so that the fee shall not be more than Shs. 20/- per day.

## THE FOREIGN TRIBUNALS (SERVICE OF PROCESS) RULES

[1st July, 1964]

G.N. No. 300 of 1964

1. These Rules may be cited as the Foreign Tribunals (Service of Process) Rules.
2. In these Rules "**the Registrar**" means the Registrar of the High Court and includes a

Deputy or District Registrar.

## **PART I**

**3.** This Part shall apply in relation to Uganda, Kenya, Zanzibar and Malawi.

**4.** (1) When a magistrate of a district court is requested by a court of a country to which this Part relates to serve a process issued by that court in a proceeding of a civil nature upon a party to such proceeding believed to be residing within the area of the jurisdiction of the district court, the magistrate of the district court shall, upon receipt of a sum of money sufficient to cover the fees and expenses of the service, deliver the summons to the process server of the court for service or arrange for the same to be served by a process server of a primary court.

(2) Where a process received for service under this rule has been served the magistrate shall endorse on the copy thereof a statement in the prescribed form as to the date and manner in which it was served and shall return it to the court issuing the same.

(3) Where it has not been possible to serve a process received under this rule the magistrate shall endorse thereon the reason for non-service and shall return it to the court issuing the same.

## **PART II**

**5.** This Part shall apply in relation to any country with which a Convention concerning the service of civil processes has been made by the United Republic and shall be subject to any special provision contained in the Convention.

**6.** Where the Registrar receives from a consular or other authority of a country to which this Part relates a process issued in any proceeding of a civil nature pending before a court or tribunal of that country for service upon any person in Tanzania together with two copies thereof and, when the same are not in the English language, two copies of a translation thereof in the English language, the Registrar shall cause the same to be served in the manner directed by the court or tribunal issuing the same or by the consular or other authority requesting its service.

**7.** A process received for service under this Part, whether the same has been served or not, or the copy thereof, shall in due course be returned to the consular or other authority requesting its service together with a certificate signed by the Registrar stating the date and the manner in which service was effected or the reasons for non-service, as the case may be, and particulars of the expenses incurred in connection with the service or attempted service.

## **PART III**

**8.** This Part shall apply in relation to any country.

**9.** Where in connection with any proceeding of a civil nature pending before a court or

tribunal of a country to which this Part relates a letter of request from such court or tribunal for service on any person in Tanzania of any process issued in such proceeding, accompanied by the process and two copies thereof and, when the same are not in the English language, two copies of a translation thereof in the English language, is transmitted to the High Court by or on behalf of the Minister for the time being responsible for foreign affairs with an intimation that it is desirable that effect should be given to such request, the Registrar shall cause such process to be served by a district court or a primary court.

**10.** Service of a process to be served under this Part shall be effected by delivering to and leaving with the person to be served one copy of the process and one copy of the translation thereof, in accordance with the rules and practice of the High Court of Tanzania regulating the service of process.

**11.** Service under this Part shall be verified by an affidavit of the process server and where it has not been possible to effect service, the reasons for non-service shall be verified in the same manner.

**12.** The Registrar shall in due course return to the Minister for transmission to the foreign court or tribunal the letter of request received from such court or tribunal together with the affidavit as to service or non-service and a certificate in the form prescribed in the Schedule hereto signed by the Registrar and sealed with the seal of the High Court.

**13.** (1) Where it has not been possible to effect service in the manner prescribed in rule 10 the Attorney-General may, at the request of the foreign court or tribunal concerned, apply to the High Court for an order for substituted service and the High Court may make such order as it shall think fit.

(2) An application under this rule shall be by chamber summons supported by an affidavit giving reasons for the same.

**14.** [Revokes the Service of Process (Neighbouring Territories) Rules, the Foreign Tribunal Process Rules and the Foreign Tribunals Process (Foreign Conventions) Rules.]

**SCHEDULE**  
**FOREIGN TRIBUNALS (SERVICE OF PROCESS) RULES**

(Rule 12)

**CERTIFICATE OF SERVICE**

I, .....,  
the Registrar of the High Court of Tanzania, hereby certify that the documents annexed  
hereto are as follows:

(1) The original letter of request for service of process received from the court/tribunal 1(18) at  
.....  
in the .....  
of .....  
in the matter of .....

(2) the process received with such letter; and

(3) affidavit of .....  
showing the date and manner in which the service was effected or the reasons for  
non-service.

And I certify that such service so proved, and the proof thereof, are such as required by  
the law and practice of this Court regulating the service of legal process in Tanzania and the  
proof thereof.

And I certify that the cost of effecting such service, or of attempting to effect such service,  
amounts to Shillings .....

Dated this ..... day of ..... 20.....

.....  
*Registrar*

## **THE FOREIGN TRIBUNALS (TAKING OF EVIDENCE) RULES**

[1st July, 1964]

G.N. No. 301 of 1964

1. These Rules may be cited as the Foreign Tribunals (Taking of Evidence) Rules.

2. Where any civil, criminal or commercial matter is pending before a court or tribunal of any other country, if under the Foreign Tribunals Evidence Act, 1856 \*(19), or any other law for the time being in force in Tanzania, the High Court is authorised to take the testimony of any person in relation to such matter and it is made to appear to a Judge of the High Court by Commission Rogatoire or Letter of Request or other evidence as hereinafter provided, that such court or tribunal is desirous of obtaining the testimony in relation to such matter of any witness or witnesses within the jurisdiction, the Judge may, on the *ex parte* application of any person shown to be duly authorised to make the application on behalf of such court or tribunal, and on production of the Commission Rogatoire or Letter of Request, or of a certificate signed in the manner, and certifying to the effect, mentioned in section 2 of the Foreign Tribunals Evidence Act, 1856 or such other evidence as the judge may require, make such order or orders as may be necessary to give effect to the intention of the laws above mentioned in

conformity with section 1 of that Act.

3. An order made under rule 2 shall be in Form 1 in the Schedule to these Rules, with such variations as circumstances may require.

4. The examination may be ordered to be taken before any fit and proper person nominated by the person applying or before any qualified person as to the Judge may seem fit.

5. Unless otherwise provided in the order for examination, the examiner before whom the examination is taken shall, on its completion, forward the same to the Registrar of the High Court of Tanzania, and on receipt thereof the Registrar shall append thereto a certificate, in Form 2 in the Schedule to these Rules, with such variations as circumstances may require, duly sealed with the seal of the High Court, and shall forward the depositions so certified, and the Commission Rogatoire or Letter of Request, if any, to the Minister for the time being responsible for foreign affairs for transmission to the court or tribunal requiring the same.

6. An order made under rule 2 may, if the Judge shall think fit, direct the said examination to be taken in such manner as may be requested by the Commission Rogatoire or Letter of Request, or therein signified to be in accordance with the practice requirements of such court or tribunal, or which may, for the same reason, be requested by the applicant for such order but, in the absence of any such special directions being given in the order for examination, the same shall be taken in the manner prescribed for the taking of evidence before the court in Tanzania.

7. Where a Commission Rogatoire or Letter of Request is transmitted to the High Court by the Minister for the time being responsible for legal affairs with an intimation that it is desirable that effect should be given to the same without requiring an application to be made to the Court by the agents in Tanzania of any of the parties to the action or matter in the country in which it was issued, the Registrar shall transmit the same to the Attorney-General, who may thereupon make such applications and take such steps as may be necessary to give effect to such Commission Rogatoire or Letter of Request in accordance with these Rules.

8. These Rules and any rules varying or amending the same shall apply, as far as may be, to applications under the Evidence by Commission Act, 1859 \*(20), for the purpose of giving effect to any Commission or Letter of Request from any Commonwealth country.

9. [Revokes the Foreign Tribunals Evidence Rules \*(21).]

## **SCHEDULE FORMS**

### **FORM 1**

## **CERTIFICATE UNDER THE FOREIGN TRIBUNALS EVIDENCE ACT, 1856 IN THE HIGH COURT OF TANZANIA**

In the matter of the Foreign Tribunals Evidence Act, 1856 (19 and 20 Vict. c. 113).

And in the matter of a proceeding, now pending, before 1(22) .....  
instituted as follows:

Between

..... *Plaintiff*  
*and*  
..... *Defendant*

Upon reading the affidavit (if any) of .....  
filed the ..... day of ..... 20..... and the certificate of  
..... 2(23) that proceedings are pending in the 3(24)  
..... in 4(25) .....  
and that such court is desirous of obtaining the testimony of 5(26)  
.....  
.....

It is ordered that the said witness ..... do  
attend before 6(27) .....  
who is hereby appointed examiner herein, at 7(28) ..... on the  
..... day of ..... 20..... at ..... o'clock, or such other day or  
time as the said examiner may appoint, and do there submit to be examined upon oath, or  
affirmation, touching the testimony so required as aforesaid, and do then and there produce  
8(29)  
.....  
.....  
.....  
.....

And it is further ordered that the said examiner do take down in writing the evidence of  
the said witness, or witnesses, according to the practice of the High Court of Tanzania  
pertaining to the examination and cross-examination of witnesses (or as may be otherwise  
directed); and do cause each and every such witness to sign his or her depositions in his, the  
said examiner's, presence; and do sign the depositions taken in pursuance of this order and  
when so completed, do transmit the same, together with this order, to the Registrar of the  
High Court of Tanzania for transmission to the President of the said Tribunal desiring the  
evidence of such witness or witnesses.

Dated this ..... day of ..... 20.....

**FORM 2**  
**CERTIFICATE UNDER THE FOREIGN TRIBUNALS EVIDENCE ACT, 1856**

I, ..... hereby certify that the documents annexed hereto are (1) the original order of the High Court of Tanzania dated the ..... day of ..... 20..... made in the matter of ..... at ..... pending in the ..... at ..... of ..... directing the examination of certain witnesses to be taken before ..... and (2) the examination and deposition taken by the said ..... pursuant to the said order, and duly signed and completed by him on the ..... day of ..... 20.....

Dated this ..... day of ..... 20.....

## **THE CRIMINAL PROCEDURE (ARRESTS AND ORDERS BY TELEGRAM) RULES**

[1st July, 1964]

G.N. No. 302 of 1964

### **1. Citation and commencement**

These Rules may be cited as the Criminal Procedure (Arrests and Orders by Telegram) Rules.

### **2. Telegraphic request for arrest**

(1) A district magistrate who has issued a warrant of arrest in respect of a non-cognisable offence may by telegram request the district court of any district in Tanzania within the area of whose jurisdiction the person whose arrest is sought is believed to be, to arrest such person and cause him to be removed in custody to the court of the magistrate who issued the warrant.

(2) A telegram sent under the provisions of subrule (1) shall state—

- (a) the number of the case;
- (b) the full name of the person to be arrested and the place where he is believed to be;
- (c) a short statement of the alleged offence;
- (d) whether bail may be allowed and if so in what amount; and
- (e) the date when the warrant of arrest was issued.

(3) On receipt of a telegram sent in accordance with the provisions of this rule the court to which it is addressed shall issue a supplementary warrant of arrest in accordance with the particulars contained in the telegram and shall cause the same to be executed.

(4) A person arrested under a supplementary warrant of arrest shall be taken before the

court which issued it and, if the person arrested appears to be the person intended by the magistrate who sent the telegram, the court shall direct his removal in custody to the court of that magistrate, unless bail is allowed in accordance with the terms of the telegram.

### **3. Directions may be notified by telegram**

(1) The Registrar of the High Court or a district magistrate may, by telegram, notify any court or any officer of the Government of any order made in any criminal proceeding by the High Court or the district court in the exercise of its appellate or revisional jurisdiction and direct him to take such steps as may be necessary to give effect to the order.

(2) A telegram sent under the provisions of subrule (1) shall state—

- (a) the number and title of the proceeding;
- (b) the substance of the order; and
- (c) the action required to be taken.

(3) On receipt of a telegram sent in accordance with the provisions of this rule, the court or officer to whom it is addressed shall act in accordance with the directions given to him.

### **4. Revocation**

[Revokes the Arrests and Orders by Telegram Rules.]

## **THE CRIMINAL PROCEDURE (SUSPENSION OF SENTENCE PENDING APPEAL) RULES**

[1st July, 1964]

G.N. No. 304 of 1964

**1.** These Rules may be cited as the Criminal Procedure (Suspension of Sentence Pending Appeal) Rules.

**2.** An application to the High Court to exercise the powers conferred on it by section 368 of the Criminal Procedure Act \*(30) shall be in writing, signed by the appellant or his advocate, and shall be supported by an affidavit setting out the grounds on which the application is based.

**3.** Notice of the application together with a copy of the affidavit in support shall ordinarily be served on the Director of Public Prosecutions not less than twenty-four hours before the application is heard.

**4.** No application shall be dealt with by the court unless notice thereof has been first given in accordance with rule 3 or unless the court for special reasons, dispenses with the giving of such notice.

**5.** On the hearing of such application the court may require the production of the original

proceedings or a copy thereof.

6. [Revokes the Suspension of Sentence Pending Appeal Rules.]

## **THE APPEARANCES BY OFFICERS OF THE GOVERNMENT RULES**

[1st July, 1964]

G.N. No. 306 of 1964

### **1. Citation**

These Rules may be cited as the Appearances by Officers of the Government Rules.

### **2. Application**

These Rules shall apply to all causes and matters, other than criminal proceedings, in the High Court, the courts of resident magistrates, district courts and, subject to the provisions of section 33(1) of the Magistrates' Courts Act \*(31), in primary courts, to which the Republic, the President or the Government or the Commissioner for Income Tax or the Postmaster-General is a party.

### **3. Appearances for the Republic, the President and the Government**

Any officer of the Government, if authorised in writing in that behalf by the Attorney-General, may appear, plead and act for the Republic, the President or the Government.

### **4. Appearances for the Commissioner of Income Tax**

Any officer in the Department of Income Tax, if authorised in that behalf by the Commissioner for Income Tax, may appear, plead and act for him.

### **5. Appearances for the Postmaster-General**

Any officer of the Tanzania Posts Corporation, if authorised in that behalf by the Postmaster-General, may appear, plead and act for him.

### **6. Proof of authorisation**

The production to any court of a written authority purporting to be signed by the Attorney-General, under rule 3, or by the Commissioner of Income Tax, under rule 4, or by the Postmaster-General, under rule 5, as the case may be, shall be sufficient proof that the officer named in such authority has been duly authorised unless the court is satisfied to the contrary.

### **7. Revocation**

[Revokes the Rules of Court (Appearance by Government Officers) Rules and the Rules of Court (Appearances by High Commission Officers) Rules, 1955.]

## **THE COURTS VACATIONS RULES**

(Section 4)

[1st July, 1964]

G.N. No. 307 of 1964

1. These Rules may be cited as the Courts Vacations Rules.
2. The vacations to be observed in the High Court shall be—
  - (a) from the fifteenth day of December, to the thirty-first day of January, inclusive; and
  - (b) from the second Saturday before Easter to the first Tuesday after Easter, inclusive.
3. During vacations the High Court shall sit only for criminal cases and the transaction of other business of an urgent nature.
4. During the High Court vacations, courts of resident magistrates and district courts shall hear civil cases in which advocates are engaged only if the cases are of an urgent nature.
5. Subject to the provisions of section 186(2) of the Criminal Procedure Act \*(32) and section 10(5) of the Magistrates' Courts Act \*(33), no court shall sit on a Sunday or on a public holiday.
6. [Revokes the Vacations of Courts Rules \*(34). ]

## **THE COURT FEES RULES**

[1st July, 1964]

G.Ns. Nos.  
308 of 1964  
411 of 1964  
64 of 1981  
104 of 1984  
390 of 1987  
225 of 1984  
20 of 1996  
233 of 2001  
313 of 2002  
430 of 2002

### **1. Citation**

These Rules may be cited as the Court Fees Rules.

## **2. Interpretation**

In these Rules, unless the context otherwise requires—

"**Registrar**" means the Registrar of the High Court and includes a Deputy Registrar and a District Registrar.

## **3. Court fees**

The fees specified in the Schedule hereto shall be paid in the High Court and magistrates' courts in respect of all proceedings and matters other than those for which specific fees are prescribed by rules of court made under any Act.

## **4. Liability for fees**

Unless otherwise expressly provided, and without prejudice to any eventual order for costs, the fee for any matter shall be payable by the person applying for the same.

## **5. Valuation**

(1) Where any fee is payable *ad valorem*, the value of the property or interest shall be deemed to be the amount which it is estimated such property or interest would realise if sold in the open market at the time when the fee is paid; and such value shall be declared by the person paying the fee and the office of the court who assesses the fee may require such declaration to be supported by a certificate of the court broker or other evidence.

(2) In assessing the value of any land, the land shall be deemed to include all buildings, erections, works, trees and perennial crops thereon, except where the person bringing the proceedings expressly declares that such buildings, erections, works, trees or perennial crops are excluded from the proceedings, but not annual crops, unless such annual crops are part of the subject-matter of the proceedings.

## **6. Assessment of fees**

Where a person paying a fee under these Rules is dissatisfied with the assessment of the fee by the officer of the court, such officer shall, if he is serving in the High Court, refer the matter to the Registrar, or if he is serving in a magistrate's court, refer the matter to the magistrate, and the Registrar or the magistrate, as the case may be, shall assess the fee and give his reasons in writing.

## **7. Reference**

(1) Where a fee has been assessed under rule 6, any party to the proceedings aggrieved by such assessment may refer his objection—

(a) if the assessment was made by a primary court magistrate, to the district court having

appellate jurisdiction over the primary court; and

- (b) if the assessment was made by a district magistrate or by the Registrar of the High Court, to a Judge of the High Court,

whose decision thereon shall be final and binding.

(2) A reference under this rule shall be by way of chamber summons supported by an affidavit giving the grounds of the objection:

Provided that a district court may accept a reference in writing objecting to an assessment by a primary court magistrate.

(3) Any such reference may be made at any time not later than thirty days after the date of the determination of the proceedings by the primary court or the district court, as the case may be.

(4) A district court or a Judge to whom any objection is referred under this rule may defer consideration of such objection pending the determination of the proceedings or the hearing of the appeal therefrom, if any.

## **8. Remission of fees**

(1) The court to which any fee is payable under these Rules may, for reasons of poverty or other good cause, remit such fee in whole or in part:

Provided that where a person in whose favour fees have been remitted is successful in the proceedings, the court may direct that an amount equal to the fees that would have been payable by him had they not been remitted shall be paid to the Government by any party to the proceedings.

(2) An application for remission of fees shall be by way of chamber summons supported by an affidavit giving grounds for such application:

Provided that a magistrate's court may accept any written or oral application for remission of fees.

(3) Where the court makes an order remitting any fee wholly or in part, it shall record its reasons for so doing.

(4) No fee shall be payable on any application for remission of fees.

(5) No fees shall be payable by a person who has been granted legal aid under the Legal Aid scheme of either the Faculty of Law, University of Dar es Salaam, the Tanganyika Law Society, the Tanzania Women Lawyer's Association (TAWLA) or the Legal and Human Rights Centre in respect of proceedings instituted by or against such person except if he is successful in the proceedings the court shall direct him to pay up the necessary court fees.

(6) An appeal against a refusal to remit any fee or any part thereof. shall lie to the High Court from any order of a court of a resident magistrate or a district court, and to the district court from any order of a primary court.

## **9. Refund of fees**

(1) If an appeal is withdrawn or abates within one year of the date on which it was filed, one-half of the fee paid for filing the same shall be refunded on application in writing made by the person who paid it.

(2) Where a court in the exercise of its appellate or revisional jurisdiction has ordered the rehearing *de novo* of any proceedings, it may, in its discretion, order the refund of all or any appeal fees to the person who paid the same.

(3) Where a court makes an order for the refund of any fee wholly or in part, it shall record its reasons for so doing.

## **10. Government proceedings**

(1) No fees shall be payable by the Republic or the Government in respect of proceedings instituted by or against the Republic or the Government, but a judgement in favour of the Republic or the Government for costs shall, unless the court otherwise directs, include the amount of the fees which would have been payable if the proceedings had been instituted by or against a private person.

(2) No fees shall be payable by the Republic or the Government in respect of any criminal proceeding.

## **11. Exemption**

Where by any convention entered into by the Republic with any other country it is provided that no fee shall be required to be paid in respect of any proceedings, the fees specified in the Schedule hereto shall not be payable in respect of those proceedings.

## **12. Revocation and amendment**

[Revokes the Court Fees Rules and amends the Advocates' Remuneration and Taxation of Costs Rules \*(35).]

## **13. Transfer to Schedule**

[Reproduced as Item 54A of Part I of the Schedule.]

# **SCHEDULE FEES**

(Rule 3)

**PART I**  
**FEEES PAYABLE IN THE HIGH COURT, COURTS OF RESIDENT MAGISTRATES AND**  
**DISTRICT COURTS**

**A. CIVIL MATTERS**

***Filing of Plaintiff and Applications***

<i>Item No</i>	<i>Fees</i>
1. On filing a plaintiff, counterclaim or set-off:	
(a) Where the claim is for a sum certain or for property or declaration of title to property, and the amount claimed or the value of the property, and the property and the amount claimed or the value of the property–	
(i) does not exceed Shs. 10,000	3,000/-
(ii) exceeds Shs. 10,000/- for the first Shs. 10,000/- and for each subsequent Shs. 10,000/- or part thereof up to 2,000,000/- and for each subsequent 10,000/- but so that the fee shall not exceed Shs. 120,000/-.	
(b) Where the claim is for damages but specific amount is claimed:	
(A) in the High Court	10,000/-
(B) in the Court of a Resident Magistrate/a District Court and in the event of damages	5,000/-
(C) Where the claim is for an injunction or declaration (other than a declaration of title to property) or other order which cannot be valued in terms of money:	
(1) in the High Court	10,000/-
(2) in the Court of a Resident Magistrate or in a District Court	10,000/-

Provided that where a fee is payable under this paragraph and also under paragraph (a) or (b) of this item, the fee under this paragraph shall be reduced to Shs. 1,500/- in the High Court of a Resident Magistrate or in a District Court and the aggregate fee shall not exceed Shs. 30,000/-

- (c) Where the claim is by a landlord for recovery of possession from a tenant, for each shs. 2,000/- or part thereof of the gross annual rent of the property 1,500/-:

Provided that where the claim is by landlord but so that the fee shall not exceed Shs. 30,000/- for recovery of rent and possession, the aggregate fee payable under paragraph (as of this item and under this paragraph) shall not exceed Shs. 8,000/-

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|-----|--|----------|
| 2.  | On making an interlocutory application, whether written or oral, including the fees for filing an affidavit in support and for the order thereon   | 1,500/-  |
| 3.  | For applying for the issue of a chamber summons, applying by motion or making any other application not otherwise provided for including the fees for filing an affidavit in support and for the order thereon | 2,000/-  |
| 4.  | On filing cognisance, bail, bond or surety   | 2,000/-  |
| 5.  | On filing an application for leave to file a pleading or other document out of time, including the fee for the order thereon   | 2,000/-  |
| 6.  | On filing an application for a order of <i>mandamus</i> or <i>certiorari</i> or an injunction (other than a temporary injunction   | 10,000/- |
| 7.  | Filing and deposit of other Documents:<br>On filing an account, including the fee for filing the report thereon, if any .....  | 1,5000/- |
| 8.  | On filing a bill of costs for taxation .....   | 2,000/-  |
| 9.  | On filing any document not otherwise provided for .....  | 1,500/-  |
| 10. | On depositing any document not otherwise provided for .....  | 1,500/-  |

*Issue and Service of Summons, Warrants, Notices and Other Documents*

11. For issue of witness summons:	
(a) if the application for the issue of summons is made more than six clear working days before the date on which the attendance of witness is required .....	1,500/-
(b) if the application is made six clear working days or less before such date .....	1,500/-
12. For the issue of warrant of arrest, warrant of attachment eviction order, prohibitory order or other process in execution of a decree or order of the court .....	2,000/-
13. For the service of any document, in addition to all necessary expenses where the service is to be effected outside the limits of the city, municipality or township in which the court issuing the document is situated .....	2,000/-
14. For the service of a document at the request of a court or a person outside the jurisdiction .....	3,000/-
15. For the issue of every notice, summons or warrant not otherwise provided for .....	1,500/-

*Evidence*

16. For taking the evidence of a witness before the hearing of the suit .....	1,500/-
17. For taking evidence on commission and in addition for every hour or part thereof after the first .....	1,500/-
18. On tendering an exhibit:	
(a) in the High Court .....	1,500/-
(b) in the court of a Resident Magistrate or in a District Court	1,500/-

*Issue and Transfer of Decrees:*

19.	For the issue of a decree or order not otherwise provided for	1,500/-
20.	For the transfer of a decree from one court to another within Tanzania including the fees for application, order, certificate of non-satisfaction and communication–	
	(a) if the amount of the decree is Shs. 1,000/- or less .....	1,000/-
	(b) if the amount of the decree exceeds Shs. 1,000/- .....	2,000/-
21.	For the transfer of a decree outside Tanzania including the fees for application, order, certificate of non-satisfaction and communication	3,000/-

*Administration of Oaths, etc., and Attestation of Signature*

22.	For administrating an oath affirmation, taking an affidavit or receiving a declaration .....	1,500/- and addition 500/- for every exhibit
23.	For attesting a signature .....	1,500/-

*Attendances and Communication*

24.	For the attendance of an officer of the court to view, in addition all necessary expenses, unless the court otherwise orders .....	2,000/-
25.	For the attendance of an officer of the court at a sale .....	2,000/-
26.	For the attendance of an officer of the court to administer an oath or take an affidavit or receive a declaration elsewhere than at the office of the court, in addition to the fee prescribed under item 22 and all necessary expenses .....	2,000/-
27.	For communication with a tribunal within Tanzania (except where the communication is in respect of service of a document issued by the court) .....	1,500/-
28.	For communication with a tribunal outside Tanzania .....	3,500/-

*Recording, Certifying, Copying, Translating and Producing for Inspection.*

29.	For recording the particulars of a plaint, application or other pleading .....	1,000/-
30.	For recording the particulars of an affidavit or declaration ...	1,000/-
31.	For translating any document–	
	(a) for the first 100 words or part thereof .....	1,000/-
	(b) for each subsequent 100 words or part thereof .....	500/-
32.	For making a copy of any document in the custody of the court or permitting any person to make such a copy in the presence of an officer of the court, for each 100 words or part thereof .....	200/-
	but so that the fee shall not be less than .....	200/-
33.	For certifying as correct translation of any document (whether or not such copy has been made by an officer of the court)–	
	(a) for the first 100 words or part thereof .....	500/-
	(b) for each subsequent 100 words or part thereof .....	200/-
34.	For certifying as correct a copy of any document (whether or not such copy has been made by an officer of the court) ...	
	(a) for each 100 words or part thereof .....	500/-
	(b) for each subsequent 100 words part thereof .....	200/-
35.	For certifying a signature on a Seal .....	1,500/-
36.	For the issue of a certificate of non-satisfaction of decree ...	1,500/-
37.	For the issue of certificate not otherwise provided for .....	1,500/-
38.	For producing for inspection of the record of any case or any document in the custody of the court .....	2,000/-

*Miscellaneous*

- |     |   |                    |
|-----|---|--------------------|
| 39. | On payment of money or deposit of anything into court as security, on deposit or otherwise (except by way of deposit for witnesses) or assessors expenses or court fees or for the subsistence of a judgement debtor or is made by an officer of the court in the course of the administration of a deceased's estate ..... |                    |
|     | less than 15 <i>per centum</i> of the amount paid into court or the value of the thing, but so that the fee shall not be less than .....  | Shs. 100/-         |
|     | nor more than .....   | Shs. 5,000/-       |
| 40. | For the management of the estate of award of court, minor or lunatic, whether by the court or by an officer of the Government appointed by the court as a trustee, such percentage per annum either of capital value of the estate or the net income or both, as the court may order .....                                  | same as in Item 39 |
| 41. | For the taking or passing of an account by an officer of the court and in addition for every sitting of three hours or past three hours or part thereof after the first three hours .....   | Shs. 1,500/-       |

## B. CRIMINAL MATTERS

### *Public Prosecutions*

These fees shall be payable in respect of or in connection with any public prosecution:

- |     |  |                               |
|-----|--|-------------------------------|
| 42. | On filing a complaint .....  | 00/-                          |
| 43. | For the issue of a summons or warrant at the request of the prosecutor, orders ..... | 1,500/-                       |
| 44. | For the issue of a witness summons at the request of the prosecutor .....            | the fee prescribed in item 12 |
| 45. | For service of any summons or warrant at the request of a prosecutor .....           | the fee prescribe in item 12  |
| 46. | For hearing a private prosecution unless the court otherwise orders .....            | 1,500/-                       |
| 47. | On the prosecutor tendering an exhibit .....   | 1,500/-                       |

48. For the issue of a warrant of arrest or order of commitment 2,000/-

*Civil Matters*

*Review, Reference, Revision and Appeals*

49. On application for review of a judgement:-

(a) to the High Court ..... 3,000/-

(b) to the court of a Resident Magistrate or to a District Court ..... 2,000/-

50. On application for reference or revision including the fee for filing an affidavit in support

(a) to the High Court ..... 3,000/-

(b) to the court of a Resident Magistrate or to a District Court ..... 2,000/-

51. On lodging an appeal to the High Court-

(a) against a final decree .....

(b) where the decree is for a sum or for certain property and the amount awarded or the value of the property-

(i) does not exceed Shs. 2,000 ..... 2,000/-

(ii) exceeds Shs. 2,000/-:

for the first Shs. 2,000/- 2,000/-

for each subsequent Shs. 2,000/- or part thereof 50/-

but so that the fees shall not exceed Shs. 40,000/-

(iii) where the decree cannot be valued in terms of money ..... 1,000/-

Provided that where a fee is payable under this paragraph and under paragraph (i) above the fee under this item shall be reduced to Shs. 4,000/- and the aggregate fee shall not exceed Shs. 20,000/-

(c) against any other order .....	2,000/-
52. On lodging an appeal to a District Court–	
(a) against a judgement–	
(i) where the judgement is for a sum certain or for property or for a declaration for title to property and the amount awarded or the value of property–	
(A) does not exceeds shs. 5,000/-	50/-
(B) exceeds Shs. 5,000/-,	
for the first Shs. 1,500/-	500/-
for each subsequent Shs. 1,000/- or part thereof,	300/-
but so that fees shall not exceed Shs. 10,000/-	
(ii) where the judgement cannot be valued in terms of money	500/-:
Provided that where a fee is payable under this paragraph the aggregate fee shall not exceed Shs. 10,000/- .....	
(b) against any other order 500/-	
53. On filing security for costs–	
(a) in the High Court .....	1,500/-
(b) in the Court of a Resident Magistrate or in a District Court	1,500/-
54. On applying for leave to appeal out of time, including the fee for the affidavit in support and the order thereof:	
(i) in the High Court .....	2,000/-

- (ii) in the Court of Resident Magistrate or in a District Court ..... 1,500/-
- 55. On every application made to the court in its appellate or revisional jurisdiction, not otherwise provided for, including the fee for the affidavit in support and the order thereon ..... 1,500/-
- 56. For the issue of a decree on appeal or an order in revision ... 1,500/-
- 57. For any matter not otherwise provided for, the fee prescribed by the equivalent item in section A of this Part.
- 58. No fee shall be payable in respect of any appeal, reference or revision in a criminal matter.

**PART II  
FEES PAYABLE IN PRIMARY COURTS**

**A  
CIVIL MATTERS**

59. On instituting Civil Proceedings–

- (a) Where the claim is for a sum certain of property, for each Shs. 100/= or part 1000/= thereof the amount claimed or the value of the property ..... Shs. 100/= but so that the fee shall not be less than Shs. 200/= nor more than Shs. 2,000/=
- (b) Where the claim is by landlord for recovery of possession from a tenant, for each Shs. 1000/= or part thereof the annual rent ..... Shs. 100/= but so that the fee shall not exceed Shs. 1,000/=
- (c) In any other case ..... Shs. 300/=

60. On any application under rule 17(1), 28, 29, 30, 42, 43, 69 or 85 Primary Court Civil Procedure Rules ..... Shs. 200/=

61. For service of any summons or other documents issued by the court ..... Shs. 100/= and where service is to be effected outside the limits of the city, municipality, township, village or settlement in which the court issuing the summons for document is situated in addition to the prescribed, such fee as will cover the cost of service but so that the fee shall not be less than Shs. 100/=

62. On applying for execution, including the fee for the issue of a warrant, if any–

- (a) Where the award is of money or property, 1,000/= for each Shs. 1000/= or part thereof of the amount awarded or the value of the property ..... Shs. 100/= (30.00) but so that the fee shall not be less than Shs. 300/= (15.00/=) nor more than 150.00/= Shs. 5,000/=
- (b) In any other case ..... Shs. 200/=

63. For administering an oath or affirmation, taking an affidavit or receiving a declaration and in addition Shs. 20.00 for every exhibit ..... Shs. 200/=

64. For attesting a signature ..... Shs. 100/=

65. For viewing land by an officer of the court, in addition to the cost of transport and reasonable sum for the officer's subsistence ..... Shs. 1,000/=

(Note: Where the court decides of its own motion to view land, this fees and the necessary expenses will be borne by the parties in equal shares, but without prejudice to any eventual order for costs).

66. For translating any document, other than an exhibit produced in the course of any proceedings–

- (a) for the first 100 words or part thereof ..... Shs. 200/=
- (b) for each subsequent 100 words or part thereof ..... Shs. 100/=

67. For making a copy of any document in the custody of the court or permitting any person to make such a copy in the presence of an officer of the court, for each 100 words or part thereof ..... 50.00 but so that the fee shall not be less than 1,000/=

68. For certifying as correct the translation of any documents (whether or not such translation has been made by an officer of the court), other than an exhibit produced in the course of a proceeding—

(a) for the first 100 words or part thereof ..... Shs. 200/=

(b) for each subsequent 100 words or part thereof Shs 100/=

69. For certifying as correct a copy of any document (Whether or not such copy has been made by an officer of the court), for each 100 words or part thereof ..... Shs. 100.00/=

70. For the issue of any certificate, not otherwise provided for Shs. 200.00/=

71. For producing for inspection the record of any proceeding or any document in the custody of the court ..... Shs 200.00/=

## **B ADMINISTRATION OF ESTATES**

72. For appointing an administrator of an estate ..... Shs. 200.00/= and in addition where the administrator is an officer of the court or is appointed as a reputable and impartial person able and willing to administer the estate there shall be payable a fee equal to 10 *per centum* of the gross value of the estate or Shs. 2,000/= whichever is the greater, but so that the fees shall not exceed Shs. 5,000/-:

Provided that where the administrator is a person other than an officer of the court the additional fee shall be payable to such person as his remuneration.

73. For all other acts, matters and proceedings the same fees are payable in primary courts in civil matters ..... Shs. 200/=

## **C**

## CRIMINAL

74. No fee shall be payable in respect of any Criminal Proceeding.

## D MISCELLANEOUS

75. On payment of money or deposit of anything into Court as Security, on deposit or otherwise (except where the payment is made by way of deposit for witnesses, or assessors expenses or Court Fees or for the subsistence of a judgement debtor or is made by an officer of the court in the course of the administration of the amount paid or estate) .... *5 per centum* of the amount paid or the value of thing but so that the fee shall not be less than Shs. 100/= nor more than Shs. 500/=.
76. For the attendance of an officer of the court to view in addition to all necessary expenses, unless the court otherwise orders ..... Shs. 1,000/=
77. For the attendance of an officer of the court at a sale Shs. 1,000/=
78. For the attendance of an officer of the court to administer an oath or affirmation or to take an affidavit or receive a declaration elsewhere than at the office of the court Shs. 1,000/=
79. For communication with a tribunal within Tanzania other than services of a document issued by the court ..... Shs. 500/=
80. For recording the particulars of an affidavit or declaration Shs. 500/=
81. For translation of any document–
- (a) for the first 100 words ..... Shs. 500/=
- (b) for each subsequent 100 words ..... Shs. 250/=
82. For making a copy of any document in the custody of the court ..... Shs. 200/=
83. For certifying as correct a copy of any document (whether made by an officer of the court or not)–

(a) for the first 100 words or part of it .....	Shs. 300/=
(b) for each subsequent 100 words .....	Shs. 200/=
84. For certifying a signature on a seal .....	Shs. 1,000/=
85. For the issue of a certificate not otherwise provided for	Shs. 1,000/=
86. (a) For certifying copy of judgement .....	Shs. 500/=
(b) Any other order .....	Shs. 150/=
87. For any matter not otherwise provided for .....	Shs. 200/=

## **THE CIVIL PROCEDURE (APPEALS IN PROCEEDINGS ORIGINATING IN PRIMARY COURTS) RULES**

G.N. No. 312 of 1964

### **1. Citation**

These Rules may be cited as the Civil Procedure (Appeals in Proceedings Originating in Primary Courts) Rules.

### **2. Interpretation**

In these Rules, unless the context otherwise requires—

**"the Act"** means the Magistrate's Court Act \*(36);

**"agent"** includes an advocate and any person who, under the provisions of section 33 of the Act, is permitted to appear and act for any party;

**"appellate court"** means the High Court or the district court, as the case may be;

**"petition of appeal"** includes the record of the grounds of appeal where the same have been stated orally and recorded by the district court under the provisions of paragraph (b) of subsection (4) of section 20 of the Act.

### **3. Applications for leave to appeal out of time**

An application for leave to appeal out of time to a district court from a decision or order of a primary court or to the High Court from a decision or order of a district court in the exercise of its appellate or revisional jurisdiction shall be in writing, shall set out the reasons why a petition of appeal was not or cannot be filed within thirty days after the date of the decision or order against which it is desired to appeal, and shall be accompanied by the petition of appeal or shall

set out the grounds of objection to the decision or order:

Provided that where the application is to a district court, the court may permit the applicant to state his reasons orally and shall record the same.

#### **4. Form and content of petitions appeal**

(1) Every petition of appeal to a district court from a decision or order of a primary court and every petition of appeal to the High court from a decision or order of a district court in the exercise of its appellate or revisional jurisdiction shall set out precisely and under distinct heads numbered consecutively the grounds of objection to the decision or order appealed against and shall be signed by the appellant or his agent.

(2) Every petition of appeal to the High Court shall be filed in duplicate.

#### **5. Registration of appeals**

(1) When a petition of appeal to a district court is filed in that court, it shall immediately be endorsed with the date of filing and be numbered and entered in a register to be kept for that purpose.

(2) When a district court permits an appellant to state the grounds of his appeal orally and records them, the record shall similarly be dated, numbered and entered in the register.

(3) When a petition of appeal to the High Court is filed in the district court, the district court shall cause the date of filing to be endorsed on the petition before dispatching it to the High Court.

(4) When a petition of appeal is received in the High Court, it shall immediately be numbered and entered in a register to be kept for that purpose.

#### **6. Cross appeals**

When separate appeals are filed by two or more parties to a proceeding, the appeals shall be registered separately but shall, unless the appellate court otherwise orders, be heard together.

#### **7. Withdrawal of appeals**

An appellant may withdraw his appeal at any time prior to the hearing thereof.

#### **8. Stay of execution**

(1) Any person who has filed an appeal to a district court may apply in writing to that court for a stay of execution of the decision or order against which he is appealing.

(2) An appeal shall lie to the High Court from any order granting or refusing a stay of

execution.

## **9. Summary rejection**

Where under subsection (3) of section 28 of the Act a judge of the High Court rejects an appeal summarily, notice of such rejection shall be served upon the appellant or his agent.

## **10. Compliance with orders**

Where a registrar gives directions under paragraph (a) of section 26(a) of the Act as to the time within which any further step in the proceedings is to be taken by any party to the appeal, he shall cause a notice of such directions to be served upon that party or his agent.

## **11. Copies of petitions of appeal**

(1) Where an appeal is to the High Court, the notice of hearing to be given to the respondent or his agent shall be accompanied by a copy of the petition of appeal.

(2) Where an appeal is to a district court, the respondent shall be entitled to receive a copy of the petition of appeal if he applies for the same.

## **12. Adjournments**

(1) An appellate court may at any time and from time to time, of its own motion or on the application of any party, adjourn the proceedings to a date fixed or to be fixed by it.

(2) When proceedings are adjourned to a date to be fixed, the court shall after fixing the date for the resumed hearing give notice of it to the parties or their agents:

Provided that it shall not be necessary to give any notice of the resumed hearing to any person who has signified in writing that he does not intend to appear at the hearing.

## **13. Non-appearance of parties**

(1) An appellant may embody in his petition of appeal a statement that he does not intend to appear personally or by agent at the hearing, together with a statement in writing of his arguments in support of the appeal and in such event and unless the court or the registrar has expressly required the appearance of the appellant, the court shall not dismiss the appeal for want of appearance and the appellate court shall have regard to such arguments.

(2) Subject to the provisions of subrule (1) of this rule, where on the day fixed for hearing the appeal or any day to which it may be adjourned, the appellant does not appear in person or by agent, the appellate court may dismiss the appeal.

(3) Where the appellant appears and the respondent, having been duly served, does not appear, the appeal shall proceed in the absence of the respondent, unless the appellate court for any sufficient reason sees fit to adjourn the hearing but if the respondent has, before the date of the hearing, filed a statement in writing of his arguments in opposition to the appeal, the

appellate court shall have regard to such arguments.

#### **14. Procedure at the hearing**

At the hearing of an appeal, the appellate court, after hearing such additional evidence, if any, as it may permit or require, shall first hear the appellant or his agent and then, unless it forthwith dismisses the appeal, the respondent or his agent and the appellant or his agent shall have the right to reply.

#### **15. Appellant restricted to grounds of appeal set out in petition**

An appellant or his agent shall not, except by leave of the appellate court, be entitled to be heard on any ground of objection not set forth in his petition of appeal.

#### **16. Judgement**

The judgement of the appellate court shall be in writing, and shall state—

- (a) the points for determination;
- (b) the decision thereon;
- (c) the reasons for the decision; and
- (d) where the decision appealed from is reversed or varied, the relief to which any of the parties may be entitled,

and shall be pronounced in open court.

#### **17. Re-admission of appeal dismissed for default**

Where an appeal has been dismissed under subrule (2) of 13 in default of appearance by the appellant, he or his agent may apply to the appellate court for the re-admission of the appeal; and if the court is satisfied that he was prevented by any sufficient cause from appearing either personally or by agent when the appeal was called on for hearing it may re-admit the appeal on such terms as to costs or otherwise as it thinks fit.

#### **18. Re-hearing of application of respondent**

Where an appeal is heard in the absence of the respondent and judgment is pronounced against him under rule 13(3), he or his agent may apply to the appellate court to re-hear the appeal and if the court is satisfied that the notice was not duly served or that he was prevented by any sufficient cause from appearing either personally or by agent when the appeal was called on for hearing, the court shall re-hear the appeal on such terms as to costs or otherwise as it thinks fit.

# THE COURT BROKERS AND PROCESS SERVERS (APPOINTMENTS, REMUNERATION AND DISCIPLINE) RULES

(Section 4)

[1st December, 1997]

G.Ns. Nos.  
315 of 1997  
764 of 1997  
299 of 2000

## 1. Citation

These Rules may be cited as the Court Brokers and Process Servers (Appointments, Remuneration and Discipline) Rules.

## 2. Interpretation

In these Rules, unless the context requires otherwise—

"**Committee**" means the Appointments and Disciplinary Committee established by rule 9(1);

"**court broker and process server**" means an auctioneer appointed under Rule 9 to be a court broker or process server;

"**executing officer**" means a court broker or any other person employed by the Registrar of the court or a Magistrate to execute a warrant of attachment or court order for sale;

"**Magistrate**" means the Resident Magistrate in charge of a Region or Resident or District Magistrate in charge of a District;

"**Registrar**" includes Deputy Registrar and a District Registrar of the High Court.

## PART I GENERAL PROVISIONS (rules 3-7)

## 3. Engagement of Executing Officer

Where a warrant of attachment or order for sale or other court process is issued by the High Court or the Court of a Resident Magistrate or by a District Court, the Registrar or Magistrate may, employ any person whom he thinks fit to execute the warrant, order or any other court process:

Provided that where there is a Court broker or process server appointed for the area where the court process is to be served or property to be attached or sold is situated, the Registrar or Magistrate shall employ that person to execute the warrant, order or any other court process

unless there is some sufficient reason for not employing him:

Provided further that, where the court broker and process server in a particular area has an interest in a case, then execution or service of the court process shall be effected by an official of the court to be appointed for that purpose, by the Registrar or Magistrate.

#### **4. Notices to judgement debtor**

(1) The executing officer shall give the judgement debtor at least fourteen days notice to settle the decretal amount or otherwise comply with the decree or order, prior to the carrying out of the execution order.

(2) In case of an eviction order, the execution officer shall give to the judgement debtor at least fourteen days notice before eviction.

#### **5. Compliance with Court Order**

Where within the period given by the officer under these rules, the judgement debtor settles the judgement or complies with the court order and pays any expenses incurred by the executing officer as assessed by the Registrar or Magistrate, the warrant or order shall cease to have legal effect.

#### **6. Submission of inventories and lists**

An executing officer shall, immediately after making an attachment of movable property, forward to the court which has issued the warrant of attachment with a copy to each of the parties; an inventory in the form of an itemized list with values showing the items attached and, the value which the executing officer places on each item:

Provided that the executing officer shall not, unless so ordered by the court attach property with a market value which exceeds five *per centum* or more of the value of the decree plus the execution expenses permitted under these rules.

#### **7. Deposits in cases of attachments, orders for sale, etc.**

Where an application has been made for the issue of a warrant of attachment, order for sale or any other court process, or a warrant, order or other process has been issued by the High Court or by a court of Resident Magistrate or a District Court, the Registrar or the Magistrate as the case may be, may require the party applying for attachment, sale or other court process to deposit any sum which may be reasonable to meet the fees, charges and allowances payable under these rules for the execution or service of that warrant, order or any other court process.

### **PART II**

#### **APPOINTMENT OF COURT BROKERS AND COURT PROCESS SERVERS (rules 8-11)**

#### **8. Appointment of court brokers**

(1) There shall be an appointment of a Disciplinary Committee composed of—

- (a) the Chief Justice or his Representative who shall be the Chairman;
- (b) one member nominated by the Tanganyika Law Society;
- (c) one member nominated by the Attorney-General;
- (d) the Registrar of the High Court who shall be the Secretary of the Committee.

(2) The Committee may appoint any person to be a Court broker or process server if it is satisfied that that person—

- (a) is licensed under the Auctioneers Act \*(37) to carry on the business of an auctioneer;
- (b) is conversant with the rules of execution and service of court process as provided for under the Civil Procedure Code \*(38) and any other relevant laws;
- (c) is of good repute and financial standing;
- (d) has adequate facilities for the safe storage of goods; and
- (e) is willing and able to pay an application fee of one hundred thousand shillings (100,000/-) or any other amount which the Chief Justice may by Notice published in the *Gazette* specify from time to time.

(3) Every appointment under subrule (2) shall be signified by a certificate under the hand of the Registrar of the High Court in Form 1 prescribed in the First Schedule.

(4) Every certificate referred to in subrule (3), shall be for a duration of one year and shall be renewable by the Chief Justice on application by the applicant, within three months after the expiry of the certificate and any application lodged after that period shall not qualify to be considered.

(5) The Chief Justice may refuse to renew a certificate if the Court broker or process servers—

- (i) is in breach of the rules governing the discharge of his responsibilities; or
- (ii) is found guilty of misconduct by the Appointments and Disciplinary Committee; or
- (iii) ceases to be qualified for appointment as court broker or process server; or
- (iv) is found to be unable to perform his duties due to bad health, old age; or
- (v) is subject to frequent litigation against him.

## **9. Applications for Appointment as Court**

(1) Every application for appointment as court broker and process server shall be in writing and shall state—

- (a) the full names, place of business and postal address of the applicant;
- (b) the number date and place of issue of the applicant's licence to carry on the business as an auctioneer;
- (c) literacy and the languages in which the applicant is fluent;
- (d) the facilities the applicant has for the safe storage of goods; and
- (e) whether the applicant has a bank account, and if so the name of his bankers, and the account number and the address of the branch at which his account is kept.

(2) An application under subrule (1) shall be in Form 2 prescribed in the First Schedule.

(3) Every application under subrule (1) shall be accompanied by—

- (a) a certificate as to the applicant's financial position and commercial repute signed by a Magistrate or an Administrative Officer or any other person of good repute to whom the applicant is personally known;
- (b) an undertaking in writing by the applicant that he will, if appointed as a court broker or process server secure within fifteen days of his appointment, and maintain, a policy or policies of insurance covering the goods which may from time to time be in his custody as the court broker against loss to third party arising from theft and against damage or destruction by fire or otherwise in the sum of not less than twenty million shillings or any other sum which the Registrar may direct, and that he will regularly produce for inspection by the Registrar or Magistrate the policy or policies of insurance and the current receipts for premiums paid.

## **10. Bonds**

(1) Every person selected to be a court broker or process server, shall, before a certificate of appointment is issued to him, unless the Chief Justice orders otherwise, enter into a bond with two sureties in the sum of ten million shillings or any other amount which the Chief Justice may by notice published in the *Gazette*, prescribe.

(2) The bond required under subrule (1) shall be in Form 3 prescribed in the First Schedule, and shall be valid for one year after which it shall be regularly revalidated upon renewal of certificate of appointment.

(3) Upon renewal of appointment of a court broker or process server under subrule (4) of rule 9, the Registrar shall issue a renewal certificate of appointment upon payment of a fee of fifty thousand shillings (50,000/-) or any other amount which the Chief Justice may by notice

published in the *Gazette* prescribe from time to time.

(4) Upon employment, the executing officer shall maintain the register of executions with the particulars of which are shown in Form 4 prescribed in the First Schedule to these rules.

(5) The Registrar or Magistrate shall inspect and evaluate the performance of each of the Court broker and process servers within their jurisdiction once every year.

#### **11. Suspension of broker or process server**

(1) The Registrar may, with the approval of the Chief Justice suspend the appointment of a Court broker and process server when disciplinary proceedings are been taken or are likely to be taken against that Court broker or process server.

(2) Where the appointment of a Court broker or process server is suspended, disciplinary proceedings against him shall, within a reasonable time; be instituted before the Appointments and Disciplinary Committee.

(3) Where disciplinary proceedings are instituted, the Appointments and Disciplinary Committee, shall regulate its proceedings according to the principles of natural justice.

(4) The Appointments and Disciplinary Committee shall have power to revoke the appointment or impose lesser penalties including reprimand.

(5) Where a court broker dies or is suspended or his licence is revoked or not renewed, any property attached by him before that occurrence may be transferred by the court to another court broker on such terms as the court may deem fit.

### **PART III FEES AND EXPENSES (rules 12-16)**

#### **12. Fees and charges**

(1) The fees, charges and allowances prescribed in the Second Schedule to these Rules shall be payable for the execution of warrants of attachment and orders for sale issued by the High Court, Courts of Resident Magistrates or District Courts, and moneys paid to the court broker in execution of such warrant or order, shall be deposited in the court within fifteen days from the date of the attachment or sale, as the case may be:

Provided that where a warrant of attachment or order for sale is to be executed outside the limits of any city, municipality or township or in any other case if in the opinion of the Registrar or Magistrate, there are special circumstances, the Registrar or Magistrate may, if he thinks fit, allow special fees, charges or allowances.

(2) The fees, charges and allowances payable under this rule shall be levied and collected by the court and, subject to the provisions of rule 15, paid to the executing officer.

(3) The fees, charges and allowances payable under this rule shall be determined by the executing court and for this purpose, the executing officer, shall file his bill of costs with the court in sufficient number to serve copies on all the parties, and the court shall determine the amount payable after hearing the parties.

(4) Fees and allowances in respect of service of court process shall be payable in accordance with the Second Schedule to the Court Fees Rules \*(39).

(5) In case of any objection proceedings arising from the attached property, where the objection is granted; the charges and allowances of the executing officer shall be met by the decree holder or any person who pointed out those properties.

### **13. Expenses of advertisement, etc.**

The prescribed fees, charges and allowances shall, except where otherwise allowed, be deemed to include all expenses of advertisement, inventories, catalogues, and necessary charges for safeguarding the property under attachment:

Provided that, where after an order for sale has been made the sale is stopped or postponed, the executing officer shall be entitled to receive all the expenses and charges which he may, in the opinion of the Registrar or Magistrates, properly have incurred.

### **14. Special provisions regarding livestock**

If the property sought to be attached or sold is livestock, the court may, after hearing the parties and the executing officer, sanction any arrangement which he may think fit for the safe custody, feeding and transport of the livestock and for the fixing and payment of costs incurred, which costs may be additional to the fees prescribed by these rules and the Court shall have power to withdraw the warrant of attachment if it is of the opinion that no satisfactory arrangement can be made between the executing officer and the attaching creditor.

### **15. Government officer employed as executing officer**

Where the executing officer is an officer of the Government, the fees, charges and allowances prescribed in the Second Schedule to these rules shall be levied and credited to as court fees in addition to any other court fees payable.

### **16. Revocation of G.N. No. 298 of 1964**

[Revokes the Attachment and Sale (Brokers and Fees) Rules.]

## **FIRST SCHEDULE FORMS**

### **FORM 1**

## **CERTIFICATE OF APPOINTMENT OF COURT BROKER**

Rule 8(3)

I, .....  
the Registrar/Deputy Registrar of the High Court of Tanzania  
..... hereby certify that  
..... of  
..... has been appointed a Court  
Broker for .....

Insert  
name and  
details of Court.

Insert area for  
which appointed

Dated at ..... this ..... day  
of ..... 20.....

Seal

.....  
*Registrar*

**FORM 2**  
**APPLICATION FOR APPOINTMENT AS COURT BROKER**

Rule 9(2)

To: The Registrar,  
The High Court of Tanzania  
.....

1. ....  
hereby apply to be appointed Court Broker for .....

Insert full name  
Insert area for  
which  
appointment is  
sought

2. I carry on the business of .....  
at ..... and my postal address is  
.....

3. I hold a valid auctioneer's licence issued at .....  
on the ..... day of ..... 20.....

My licence for the current year is annexed hereto.

4. I speak the following languages fluently:

.....  
.....  
.....

Describe the storage facilities, the address, size and type of construction of the warehouse

5. I have the following facilities for the safe storage of goods:

.....  
.....  
.....

Give banking details

6. I have/do not have not a banking account. My bankers are

.....  
..... and my account is No .....  
which is kept at the ..... branch.

7. I hereby undertake that in the event of my being appointed as a court broker, I will maintain a policy or policies of insurance covering the goods which may from time to time be in my custody as such court broker against theft and against damage or destruction by fire in the sum of Shs. 30,000,000 or such sum as you may direct and that I will, if and when called upon by you or a magistrate, produce for inspection the policy or policies of insurance and the current receipts for premiums paid.

Dated at ..... this ..... day of ..... 20.....

.....  
*Signature of Applicant*

CERTIFICATE

I, ..... of .....  
hereby certify that ....., the applicant herein, is personally known to me, and that in my opinion he is a person of good financial standing and enjoys a good commercial repute.

Dated this ..... day of ..... 20.....

.....  
*Signature*

**FORM 3  
BOND**

Know all men by these present that we  
..... of .....  
..... of ..... and  
..... of .....  
are jointly and severally bound to the Registrar of the High Court of  
Tanzania in the sum of ten million shillings to be paid to the Registrar or to  
his successor in office for the payment of which we bind ourselves and  
each of us and our heirs, executors, administrators and assigns.

Insert name of  
applicant and  
his two sureties

Dated this ..... day of ..... 20.....

The condition of this obligation is that if the above-named .....  
.....  
who has been selected for appointment as a court broker for the time shall  
at all times, well and truly perform and fulfil all the duties and obligations of  
a court broker in accordance with the rules and practice of the High Court  
of Tanzania or any court subordinate to it to which his appointment may  
relate, AND shall well and faithfully execute all the trusts reposed or which  
shall or may be reposed in him.

Insert name of  
applicant

AND in the case of any default or defaults shall pay to the Registrar of  
the High Court for the use of the persons who may be entitled to it all  
moneys payable or chargeable to him for or in respect or in consequence  
of any default or defaults, then this obligation shall be void and of no effect  
or else shall remain in full force.

Signed and delivered by the within named:

.....  
.....

in the presence of .....

.....  
*Signatures of persons giving bond*

Notice to settle Decretal Amount

*Rule 5*

In the High/RM'S/District Court of .....  
Civil Case No. ....



## SECOND SCHEDULE

### PART I ATTACHMENT

*Item No.*

*Fees*

1. For attaching or taking possession of movable property and keeping possession of the same for 30 days or part thereof, when the estimated value of the property (in accordance with the executing officer's inventory furnished under rule 6)–

- |   |   |
|---|---|
| (a) does not exceed Shs. 200,000/-                                | 5% but not exceeding Shs. 10,000/-                                    |
| (b) exceeds Shs. 200,000/- but does not exceed Shs. 2,000,000/-   | Shs. 10,000/- plus 2% of the amount in excess of Shs. 200,000/-       |
| (c) exceeds Shs. 2,000,000/- but does not exceed Shs. 50,000,000/ | Shs. 30,000/- plus 1% of the amount in excess of Shs. 2,000,000/-     |
| (d) exceeds Shs. 50,000,000/-                                     | Shs. 100,000/- plus 0.5% if the amount in excess of Shs. 50,000,000/- |

Provided that where it is considered necessary to hold the property for longer period, the executing officer shall, in addition to the fee calculated on the basis of the above schedule, be reimbursed for the additional costs/expenses which in the opinion of the Registrar or Magistrate, are properly incurred.

2. For attaching immovable property where the amount of the decree in execution of which the property is attached–

- |  |   |
|--|---|
| (a) does not exceed Shs. 200,000/-                                 | 5% but not exceeding Shs. 10,000/                                 |
| (b) exceeds Shs. 200,000/- but does not exceed Shs. 2,000,000/-    | Shs. 10,000/- plus 2% of the amount in excess of Shs. 200,000/-   |
| (c) exceeds Shs. 2,000,000/- but does not exceed Shs. 50,000,000/- | Shs. 30,000/- plus 1% of the amount in excess of Shs. 2,000,000/- |

- |                               |   |
|-------------------------------|---|
| (d) exceeds Shs. 50,000,000/- | Shs. 100,000/- plus 0.5% of the amount in excess of Shs. 50,000,000/- |
|-------------------------------|---|

3. For attending to, attaching or taking possession of movable property, where no property is found after diligent inquiries, the executing officer shall be paid 1% of the decretal amount and be reimbursed for actual expenses incurred in the exercise.

## **PART II SALE**

4. For selling movable property where the amount realised—

- |  |   |
|--|---|
| (a) does not exceed Shs. 200,000/-                               | 5% but not exceeding Shs. 10,000/-                                    |
| (b) exceeds Shs. 200,000/- but does not exceed Shs. 2,000,000/-  | Shs. 10,000/- plus 2% of the amount in excess of Shs. 200,000/-       |
| (c) exceeds Shs. 2,000,000 but does not exceed Shs. 50,000,000/- | Shs. 30,000/- plus 1 % of the amount in excess of Shs. 2,000,000/-    |
| (d) exceeds Shs. 50,000,000/-                                    | Shs. 100,000/- plus 0.5% of the amount in excess of Shs. 50,000,000/- |

5. For selling immovable property, where the amount realised—

- |   |   |
|---|---|
| (a) does not exceed Shs. 200,000/-                                | 5% but not exceed shs 10,000/-  |
| (b) exceeds Shs. 200,000/- but does not exceed Shs. 2,000,00/-    | Shs. 10,000/- plus 2% of the amount in excess of Shs. 200,000/-       |
| (c) exceeds Shs. 2,000,000/- but does not exceed shs 50,000,000/- | Shs. 30,000/- plus 1% of the amount in excess of Shs. 2,000,000/-     |
| (d) exceeds Shs. 50,000,000/-                                     | Shs. 100,000/- plus 0.5% of the amount in excess of Shs. 50,000,000/- |

6. Where an order of sale has been made but the executing officer is informed by the Registrar or Magistrate that the attachment is deemed to have been withdrawn or has ceased or that the order for the sale has been set aside or the sale has been postponed by the Court or the property was for any other reason unsold or where the decretal amount and costs (including the costs of the sale) are tendered to the executing officer or proof is given to his satisfaction that such amount and costs have been paid into the court—

- |  |  |   |
|--|--|---|
| (a)  | before commencement of sale                                    | NIL   |
| (b) after commencement of sale where estimated value of property ordered to be sold— |  |   |
| (i)  | does not exceed shs 200,000/-                                  | 5% but not exceeding Shs. 10,000/-                                    |
| (ii)   | exceeds Shs. 200,000/- but does not exceed Shs. 200,000/-      | Shs. 10,000/- plus 2% of the amount in excess of Shs. 200,000/-       |
| (iii)  | exceeds Shs. 2,000,000/- but does not exceed Shs. 50,000,000/- | Shs. 30,000/- plus 1% of the amount in excess of Shs. 2,000,000/-     |
| (iv)   | exceed Shs. 50,000,000/-                                       | Shs. 100,000/ plus 0.5% of the amount in excess of Shs. 50,000,000/-. |

## **RULES OF COURT**

### **THE HIGH COURT REGISTRIES RULES**

(Section 4(2))

G.Ns. Nos.  
 164 of 1971  
 68 of 1972  
 200 of 1973  
 194 of 1974  
 142 of 1977

23 of 1985  
390 of 1987  
390 of 1987  
335 of 1991  
81 of 1992  
141 of 1999  
162 of 2000

## 1. Citation

These Rules may be cited as the High Court Registries Rules.

## 2. Interpretation

In these Rules, under the context otherwise requires—

**"appeal"** includes revision, review, reference, case stated and point of law reserved;

**"appellate proceedings"** means all proceedings relating to appeals to the High Court from subordinate courts and to all applications to the High Court for review or revision of proceedings in subordinate courts;

**"commercial case"** means a civil case involving a matter considered to be of commercial significance, including but not limited to:

- (a) the formation of a business or commercial organisation;
- (b) the governance of a business or commercial organisation;
- (c) the contractual relationship of a business or commercial organisation with other bodies or persons outside it;
- (d) the liability of a commercial or business organisation or its officials arising out of its commercial or business activities;
- (e) the liabilities of a commercial or business person arising out of that person's commercial or business activities;
- (f) the restructuring or payment of commercial debts by or to business or commercial organisation or person;
- (g) the winding up or bankruptcy of a commercial or business organisation or person;
- (h) the enforcement of commercial arbitration award;
- (i) the enforcement of awards of a regional court or tribunal of competent jurisdiction made in accordance with a Treaty or Mutual Assistance arrangement to which the

United Republic is a signatory and which forms part of the law of the United Republic;

(j) admiralty proceedings; and

(k) arbitration proceedings;

**"Commercial Division"** means a commercial division of the High Court established under Rule 5A;

**"Court"** means the High Court;

**"economic crimes"** means cases tried under the Economic and Organised Crime Control Act \*(40);

**"original proceedings"** means all proceedings in the Court not being appellate proceedings;

**"Registrar"** means the Registrar of the High Court, a Deputy Registrar, and District Registrar, Acting District Registrar and Registrar of a Commercial Division;

**"Registry"** includes a District Registry.

### **3. Registries of the High Court**

There shall be two Registries of the High Court, one for the High Court when it is exercising its ordinary jurisdiction and the other when the High Court is exercising economic crimes jurisdiction.

### **4. Registries to be kept in the High Court**

There shall be kept and maintained at every High Court Registry two separate registers one for economic crimes and the other for ordinary cases.

### **5. District Registry**

In addition to the Registry at Dar es Salaam there shall be a District Registry at such places and for such areas as are set out in the Schedule to these Rules or as may hereafter be set out under the provisions of rule 6.

### **5A. Commercial Division of the High Court**

There shall be a Commercial Division of the High Court within the Registry at Dar es Salaam and at any other registry or sub-registry as may be determined by the Chief Justice, in which proceedings concerning commercial cases may be instituted.

### **5B. Commercial Court Users Committee**

There shall be a Commercial Court Users Committee Constituting of the Judges of the

Commercial Division of the High Court, two advocates nominated by the Tanganyika Law Society, two State Attorneys nominated by the Attorney General and five persons nominated by lawfully established organisations representing the commercial community.

#### **5C. The Commercial Court User's Committee to advise**

It shall be the responsibility of the Commercial Court Users' Committee to advise the Commercial Division of the High Court on matters of court practice and to submit a list of persons knowledgeable in commercial matters to serve as assessors.

#### **5D. Remuneration**

Assessors shall be remunerated or compensated for service rendered in a manner determined by the Chief Justice and notified in the *Gazette* upon recommendation of the commercial Court Users' Committee.

#### **6. Alteration of the Rules**

The Schedule to these Rules may be altered or amended by notice issued by the Chief Justice and published in the *Gazette*.

#### **7. Proceedings may be instituted**

(1) Original proceedings in the Court may be instituted either in the Registry at Dar es Salaam or in the District Registry (if any) for the area in which the cause of action arose or where the defendant resides:

Provided that where original proceedings in a commercial case are instituted in a District or Sub-registry, such proceedings shall as soon as practicable be transferred to the Commercial Division before further steps are taken in the proceedings, except where all parties agree to have the commercial case determined by the High Court at such District or Sub-registry of the High Court.

(2) Appellate proceedings in the Court shall be instituted in the District Registry for the area in which is situated the court from the judgment or order of which the appeal is preferred or where there is no District Registry for such area, in the Registry at Dar es Salaam:

Provided that the Registrar may allow a party to file in the Registry at Dar es Salaam a memorandum or petition of appeal, an application for review or revision, or an application for reference which should be filed in a District Registry if he is satisfied that it is more convenient for the party or his advocate to file the same there:

And provided that where such memorandum or petition of appeal, application for review or revision, or application for reference is filed in the Registry at Dar es Salaam the Registrar shall forthwith transmit the same to the appropriate District Registry and such memorandum or petition of appeal, application for review or revision, or application of reference shall be deemed to have been filed in the District Registry on the date when the same was filed in the Registry at

Dar es Salaam.

(3) All documents filed subsequently to the institution of any proceedings in the Court shall, subject as hereinafter provided, be filed at the place where the proceedings were instituted or are deemed to have been instituted.

(4) The Court may at any time on application or of its own motion transfer any proceedings from one Registry to another and any proceedings so transferred, and all documents shall be filed accordingly.

#### **8. Matters on economic crimes**

(1) When any cause or matter on economic crimes has been entered in the appropriate Registry, it shall be entitled–

"IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE REGISTRY/DISTRICT REGISTRY AT ..... ECONOMIC AND ORGANISED CRIMES  
CRIMINAL CASE No ..... OF ....."

(2) When any cause or matter, whether original or appellate, has been entered in a District Registry, it shall be entitled–

"IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA IN THE DISTRICT  
REGISTRY AT ..... Criminal Appeal/Civil Appeal/Civil Case/ Miscellaneous Civil Case,  
Bankruptcy Case, Matrimonial Case No....." as the cause may be.

#### **9. Summonses, warrants, orders, etc. may be signed**

All summonses, warrants, orders, decrees, notices and mandatory processes whatsoever of the Court may be signed by any judge or by a Registrar and shall be sealed with the seal of the Court. Every order of the Court shall be dated as the date on which the Judgement was given or order made and shall in addition show the date on which the order was extracted.

#### **10. Steps and applications to be taken before a judge**

All formal and preliminary steps and all interlocutory applications in proceedings entered at a District Registry shall be taken or made either before a judge or the District Registrar.

#### **11. Matters to be referred to the judge**

(1) Any person aggrieved by any decision of a Registrar made or purported to be made under these Rules may, within fifteen days by notice in writing, require that the matter be referred to a judge for his decision and the judge may make such order thereon as the justice of the case may require.

(2) For the purpose of computing the period of fifteen days under subrule (1), the provisions

of the Law of Limitation Act \*(41), as to the exclusion of time shall apply.

## 12. Revocation

[Revokes the High Court Registries Rules \*(42).]

### SCHEDULE

(Rule 5)

<i>Area</i>		<i>Place of Registry</i>
Dar es Salaam Region	)	Dar es Salaam
Coast Region	)	
Morogoro Region	)	
Tabora Region	)	Tabora
Kigoma Region	)	
Shinyanga Region	)	Mtwara
Mtwara Region	)	
Lindi Region	)	Songea
Ruvuma Region	)	
Mwanza Region	)	Mwanza
Mara Region	)	
Kagera Region		Bukoba
Arusha Region		Arusha
Kilimanjaro Region		Moshi
Tanga Region		Tanga
Mbeya Region	)	Mbeya
Iringa Region	)	
Rukwa Region	)	Dodoma
Dodoma Region	)	
Singida Region	)	

### THE LANGUAGE OF COURTS RULES

(Section 4)

[2nd October, 1981]

G.Ns. Nos.  
115 of 1981  
31 of 1996

1. These Rules may be cited as the Language of Courts Rules.
2. The language of the High Court shall be either English or Kiswahili as the Judge holding such court shall direct, but the records of judgement or decision of the Court shall be in English \*(43).

## **THE COMMERCIAL COURT (FEES) RULES**

(Section 4)

[1st October, 1999]

G.N. No. 275 of 1999

### **1. Citation**

These Rules may be cited as the Commercial Court (Fees) Rules.

### **2. Court fees**

The fees specified in the Schedule to these Rules shall be paid in the Commercial Court in respect of all proceedings and matters specified therein and the Court (Fees) Rules shall not apply to the Commercial Court.

### **3. Liability sees**

Unless it is otherwise provided for expressly, and without prejudice to any eventual order for costs, the fee for any matter in the Commercial Court shall be payable by the person applying for that matter.

### **4. Valuation**

(1) Where any fee is payable *ad valorem*, the value of the property or interest shall be deemed to be the amount which it is estimated such property or interest would realise if sold in the open market at the time when the fee is paid and that value shall be declared by the person paying the fee and the officer of the court who assesses the fee may require such declaration to be supported by a certificate of the court broker or other evidence.

(2) In assessing the value of any land, the land shall be deemed to include all buildings, erection, works, tree and perennial crops thereon except where the person bringing the

proceedings expressly declares that such buildings, erection, works, trees or perennial crops are excluded from the proceeding but not annual crops unless such annual crops are part of the subject matter of the proceedings.

## **5. Assessment of fees**

Where a person paying a fee under these Rules is dissatisfied with the assessment of the fee by the officer of the court, such officer shall refer the matter to the Registrar of the court and the Registrar shall assess the fee and give his reasons in writing.

## **6. Reference**

(1) Where a fee has been assessed under rule 5, any part to the proceeding aggrieved by that assessment may refer his objection to the Court of Appeal.

(2) A reference under this rule shall be by way of chamber summons supported by an affidavit giving grounds of the objection.

(3) Any reference referred to in this section may be made at any time not later than thirty days after the date of the determination of the proceedings.

(4) The Court of Appeal may defer consideration of any objection referred to it under this rule pending the determination of the proceedings or the hearing of the appeal if any.

## **7. Refund of fees**

(1) If any appeal is withdrawn or abates within one year of the date on which it was filed, one-half of the fee paid for filing the appeal shall be refunded on application in writing made by the person who paid it.

(2) Where the Court of Appeal in exercise of its appellate or revisional jurisdiction has ordered the rehearing *de novo* of any proceedings, it may, in its discretion, order the refund of all or any appeal fees to the person who paid the same.

(3) Where the court makes an order for the refund of any fee wholly or in part, it shall record its reasons for so doing.

## **8. Government proceedings**

No fee shall be payable by the Republic or the Government in respect of proceedings instituted by or against the Republic or the Government but a judgement in favour of the Republic or the Government for costs shall, unless the court directs otherwise, included the amount of the fees which would have been payable if the proceedings had been instituted by or against a private person.

## **9. Exemption**

Where by any convention, agreement or treaty entered into by the Republic with any other

country it is provided that no fee shall be required to be paid in respect of any proceedings, the fees specified in the Schedule to these Rules shall not be payable in respect of those proceedings.

## SCHEDULE FEES

1. On filing a plaint, counter-claim or set off–

(a) Forty cents shall be payable for every twelve shillings of the value of the subject matter or of the amount claimed in a suit or counter-claim or set off.

(b) Where the claim is for damage but no specific amount is claimed ..... Shs. 100,000/-

(c) Where the claim is for injunction or declaration (other than declaration of title to property) or other order which cannot be valued in terms of money ..... Shs. 100,000/-

(d) Where the claim is made by a landlord for recovery of possession from a tenant, for each Shs. 2,000/- or part thereof of the gross annual rent of the property shs. 15,000/-

Provided that where the claim is by landlord but so that the fee shall not exceed Shs. 30,000/- for recovery of rent and possession, the aggregate fee payable under this paragraph (as of this item and under this paragraph) shall not exceed Shs. 80,000/-.

2. On making an interlocutory application whether written or oral, including the fee for an affidavit in support and for the order thereon ..... Shs. 15,000/-

3. For applying for the issue of a chamber summons, application not otherwise provided for and including the fees for filling an affidavit in support and for the order thereon ..... Shs. 20,000/-

4. On filing application for adjournment or for leave to file a pleading or other document out of time including the fee for the order thereon ..... Shs. 20,000/-

5. On filing an application for an order of *mandamus* or *certiorari* or an injunction (other than a temporary injunction) ..... Shs. 10,000/-

6. Filing and deposit of other documents and on filing an account, including the fee for filing the report thereon, (if any) ..... Shs. 15,000/-

7. On filing a bill of costs for taxation ..... Shs. 20,000/-

8. On filing any document not otherwise provided for .....	Shs. 15,000/-
9. On depositing any document not otherwise provided for .....	Shs. 15,000/-
10. For the issue of warrant of attachment, evicting order, prohibitory order or other process in execution of a decree or order of the court .....	Shs. 20,000/-
11. For the service of any document, in addition to all necessary expenses where the service is to be effected outside the limits of the city, municipality or township in which the court issuing the document is situated .....	Shs. 20,000/-
12. For the service of document at the request of a person outside the court jurisdiction .....	Shs. 30,000/-
13. For the issue of every notice, summons or warrant not otherwise provided for .....	Shs. 15,000/-
14. For taking the evidence of a witness before hearing of the suit .....	Shs. 15,000/-

*Evidence:*

15. For taking evidence on Commission and in addition for every hour or part thereof after the list .....	Shs. 15,000/-
16. On tendering an exhibit .....	Shs. 15,000/-

*Issue and Transfer of Decrees:*

17. For the issue of a decree or order otherwise provided for .....	Shs. 15,000/-
18. For the transfer of a decree outside Tanzania including the fees for application for an order, certificate of non-satisfaction and communication .....	Shs. 30,000/-
19. For attesting a signature .....	Shs. 15,000/-

*Attendance and communications:*

20. For the attendance of an officer of the court to view, in addition to all necessary expenses, unless the court otherwise orders.	
21. All necessary expenses, unless the court orders otherwise .....	Shs. 20,000/-
22. for the attendance of an officer of the court at a sale .....	Shs. 20,000/-

23. For the attendance of an officer of the court to administer an oath or affirmation or to take an affidavit or receive a declaration elsewhere than at the office of the court, in addition to the fee prescribed under item 22 and all necessary expenses ..... Shs. 15,000/-

24. For communication with a tribunal within Tanzania (except where the communication in respect of services of document issued by the court) ..... Shs. 15,000/-

25. For communication with a tribunal outside Tanzania ..... Shs. 30,000/-

*Recording, Certifying, Copying, Translating and Producing for Inspection:*

26. For recording the particulars of a plaint, application or other pleading ..... Shs. 10,000/-

27. For recording the particulars of an affidavit or declaration ..... Shs. 10,000/-

28. For translation of any document–

(a) for the first 100 words or part thereof ..... Shs. 10,000/-

(b) for each subsequent 100 words or part thereof ..... Shs. 5,000/-

29. For certifying as a correct the translation of any document (where or not such copy has been made by an officer of the court–

(a) for the first 100 words or part thereof ..... Shs. 5,000/-

(b) for each subsequent 100 words or part thereof ..... Shs. 2,000/-

30. For certifying as correct a copy of any document (whether or not such copy has been made by an officer of the court).

(a) for the first 100 words or part thereof ..... Shs. 5,000/-

(b) for each subsequent 100 words or part thereof ..... Shs. 2,000/-

31. For certifying a signature on Seal ..... Shs. 15,000/-

32. For the issue of a certificate of non-satisfaction of decree ..... Shs. 15,000/-

33. For the issue of certificate not otherwise provided or ..... Shs. 15,000/-

34. For producing for inspection of the record of any case or any document in the custody of the court ..... Shs. 20,000/-

35. On payment of money or deposit of anything into court as security on deposit or otherwise (except by way of deposit for witnesses) or assessors expenses or court fees or for the subsistence of judgement debtor or is made by an officer of the Court in the courses of the administration of a deceased's estate, 15 *per centum* of the amount paid into court or the value of the thing but so that the fee shall not be less than Shs. 100 nor more than Shs. 5,000/-.

36. On application for review of the judgement .....	Shs. 30,000/-
37. On application for reference or revision including the fees for filing an affidavit in support .....	Shs. 30,000/-
38. On application for reference or revision including the fees for filing an affidavit in support .....	Shs. 30,000/-
39. On lodging the appeal–	
(a) against the final decree where the decree is for a sum certain or for property and the amount awards or the value of the property–	
(i) does not exceed Shs. 2,000/- .....	Shs. 20,000/-
(ii) exceeds Shs. 2,000/- for the first 2,000/- and for each subsequent Shs. 2,000/- or part thereof Shs. 50/- but so that the fees shall not exceed Shs. 40,000/-	
(iii) where the decree cannot be valued in terms of money .....	Shs. 20,000/-:
<p>Provided that where a fee is payable under paragraph (i) above the fee under this item shall be reduced to Shs. 4,000/= and aggregate fees shall not exceed Shs. 20,000/=.</p>	
(b) against any other order .....	Shs. 20,000/=
40. On filing security .....	Shs. 15,000/-
41. On application for leave to appeal out of time including an affidavit in support and the order thereof .....	Shs. 20,000/-
42. On every application made to the Court of Appeal in its appellate or revisional jurisdiction, not otherwise provided for, including the fee for the affidavit in support and order thereon .....	Shs. 15,000/-
43. For the issue of a decree on appeal or an order in revision .....	Shs. 15,000/-

## **Endnotes**

### **1 (Popup - Popup)**

*Note:* The revised version of this Act consists of–

- (a) The Indian Acts (Application) Act (R.L. 2) which came into operation on 1st December 1920, and whose provisions are reproduced in sections 14, 15, 16, 17, 18 and 19; and
- (b) the Judicature and Application of Laws Act (R.L. 453) which came into operation on the 9th December, 1961 and whose provisions are reproduced in Part II and Part III A and B.

### **2 (Popup - Popup)**

Cap. 165

### **3 (Popup - Popup)**

Cap. 29

### **4 (Popup - Popup)**

R.L. Cap. 114

### **5 (Popup - Popup)**

Cap. 287

### **6 (Popup - Popup)**

G.N. No. 141 of 1999

### **7 (Popup - Popup)**

Ndoa za kikristo na za Kiislamu hazikugushwa.

### **8 (Popup - Popup)**

Katika makabila mengi ya Tanzania kuna tofauti nyingi za ndoa zinazofuatwa. Haikusudiwi kuifuta kawaida ye yote ya kufunga ndoa.

### **9 (Popup - Popup)**

Cap. 358 S.L.

### **10 (Popup - Popup)**

G.N. No. 436 of 1963

**11 (Popup - Popup)**

First Schedule to G.N. No. 279 of 1963

**12 (Popup - Popup)**

First Schedule to G.N. No. 279 of 1963

**13 (Popup - Popup)**

First Schedule to G.N. No. 279 of 1963

**14 (Popup - Popup)**

R.L. Cap. 537 s. 67(3)

**15 (Popup - Popup)**

Cap. 358 S.L.

**16 (Popup - Popup)**

R.L. Cap. 537 s. 67(3)

**17 (Popup - Popup)**

Cap. 33

**18 (Popup - Popup)**

Delete as applicable.

**19 (Popup - Popup)**

19 & 20 Vict. c. 113

**20 (Popup - Popup)**

22 Vict. c. 20

**21 (Popup - Popup)**

A.L. [12] p. 2

**22 (Popup - Popup)**

Description of foreign tribunal.

**23 (Popup - Popup)**

Name and description of the ambassador, minister, diplomatic agent, or consul.

**24 (Popup - Popup)**

Description of foreign tribunal.

**25 (Popup - Popup)**

Name of country.

**26 (Popup - Popup)**

Names of witnesses.

**27 (Popup - Popup)**

Name and address of examiner.

**28 (Popup - Popup)**

Place appointed for examination.

**29 (Popup - Popup)**

Description of documents, if any, required to be produced.

**30 (Popup - Popup)**

Cap. 20

**31 (Popup - Popup)**

Cap. 11

**32 (Popup - Popup)**

Cap. 20

**33 (Popup - Popup)**

Cap. 11

**34 (Popup - Popup)**

A.L. [20] pg. 2

**35 (Popup - Popup)**

Cap. 341 S.L.

**36 (Popup - Popup)**

Cap. 11

**37 (Popup - Popup)**

Cap. 227.

**38 (Popup - Popup)**

Cap. 33

**39 (Popup - Popup)**

G.N. No. 308 of 1964

**40 (Popup - Popup)**

Cap. 200

**41 (Popup - Popup)**

Cap. 89

**42 (Popup - Popup)**

G.N. No. 12 of 1962

**43 (Popup - Popup)**

G.N. No. 31 of 1996