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# THE LAW REFORM (FATAL ACCIDENTS AND MISCELLANEOUS PROVISIONS) ACT (CAP. 310)

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## SCHEDULE

THE LAW REFORM (FATAL ACCIDENTS AND MISCELLANEOUS PROVISIONS) ACT
(CAP. 310)

**RULES**

*(Made under section 19)*

THE LAW REFORM (FATAL ACCIDENTS AND MISCELLANEOUS PROVISIONS) (JUDICIAL REVIEW PROCEDURE AND FEES) RULES, 2014

Citation

1. These Rules may be cited as the Law Reform (Fatal Accidents and Miscellaneous Provisions) (Judicial Review Procedure and Fees) Rules, 2014.

Application

2. These Rules shall apply to applications for the prerogative orders of *mandamus*, prohibition and *certiorari*.

Interpretation

3. In these Rules, unless the context otherwise requires-

"Judicial review" for the purposes of these Rules shall mean an application for prerogative orders of *mandamus* or prohibition or *certiorari*.

Who may apply for judicial review

4. A person whose interests have been or believes will be adversely affected by any act or omission, proceeding or matter, may apply for judicial review.

Requirement for leave

5.-(1) An application for judicial review shall not be made unless a leave to file such application has been granted by the court in accordance with these Rules.

(2) An application for leave under sub-rule (1) shall be made *ex parte* to a judge in chambers and be accompanied by-

(a) a statement providing for the name and description of the applicant;
(b) the relief sought;
(c) the grounds on which the relief is sought; and

(d) affidavits verifying the facts relied on.

(3) An application for leave shall be substantially in the Form A set out in the First Schedule to these Rules and shall be signed by or on behalf of the applicant.

(4) An application for leave shall be heard and determined within fourteen days from the date the application was made.

(5) The Judge may, in grating leave, impose terms as to costs and giving security as he thinks fit including cash deposit, bank guarantee or insurance bond from a reputable institution.

(6) The grant of leave under this rule shall apply for an order of prohibition or an order of *certiorari*, if the Judge so directs, operate as a stay of the proceeding in question until the determination of the application, or ordered otherwise:

Provided that where the circumstances require, the Judge may direct that the application be served for hearing inter-partes before the grant of such leave.

Time limit

6. The leave to apply for judicial review shall not be granted unless the application for leave is made within six months after the date of the proceedings, act or omission to which the application for leave relates.

Hearing

7.-(1) The Judge may grant leave to file an application for judicial review without hearing the applicant.

(2) Notwithstanding the provisions of sub-rule (1), where it appears that a hearing is desirable in the interests of justice, the Judge may hear the applicant.

(3) The Judge may, on the hearing of the application for leave, allow-

(a) the statement to be amended; and

(b) further affidavits to be used if they deal with new matters arising out of the affidavits of any other party to the application.

(4) Where the applicant intends to amend his statement or use further affidavits, he shall give a notice of his intention to amend the statement accompanied by the proposed amendments to the statement.

(5) The Judge may, depending on the circumstances of the matter before him, grant interim relief as ap-

pears just.

Application for judicial review

8.-(1) Where a leave to apply for judicial review has been granted, the application shall be made-

(a) by way of chamber summons supported by an affidavit and the statement in respect of which leave was granted; and

(b) within fourteen days from the day of the leave was granted.

(2) The chamber summons shall be in the format subscribed in Form B set out in the First Schedule to these Rules and shall be signed by or on behalf of the applicant.

(3) The affidavit shall be made by the applicant in person or by an authorized officer of the applicant.

(4) Where the applicant is unable to make the affidavit, the affidavit may be made by another person on the applicant's behalf, and it shall state why the applicant is unable to make the affidavit.

(5) The Court shall upon issuing the chamber summons, fix a hearing date.

Service of application

9.-(1) The applicant shall within seven days after filing the application, serve a copy of the application on the respondent together with supporting documents specified under rule 8.

(2) The respondent shall on demand be served with copies of affidavit accompanying the application for leave.

(3) The applicant shall within three days before the hearing date file in court an affidavit stating-

(a) the names, address of the place and date of service on all persons who have been served with chamber summons; and

(b) the fact and reasons why the service has not been effected to a person who ought to be served under the provision of the rule.

Adjournment of the hearing for supply of copies

10. Where the Court is of the opinion that a person who ought to have been served with a copy of application, has not been served, it may adjourn the hearing, to allow that person to be served.

Service of documents to parties

11. Every party to the proceeding shall supply to all other parties, copies of all the documents which he proposes to use at the hearing and no grounds shall be relied upon or any relief sought at the hearing of the application except the grounds and relief set out in the statement.

Right to begin

12. The applicant shall, on hearing of an application made under rule 8, have the right to begin.

Counter affidavit and reply to statement

13. Any evidence filed in reply to the application for an order for judicial review shall be by way of counter affidavit and a statement in reply and filed within fourteen days from the date of service.

Right to be heard in opposition

14.-(1) Any person who is not a party but desires to be heard in opposition shall at any time before the hearing apply to be made a party to the application.

(2) The Court shall hear the person referred to under sub - rule (1), if it is of the opinion that he is a proper person to be heard.

special provisions relating to *certiorari*

15. Where the application for judicial review is for an order of the *certiorari* and the Judge is satisfied that there are reasons for quashing the decision to which the application relates, he may-

(a) direct the proceedings to be quashed forthwith on their removal into the Court; or

(b) remit the matter to the Court, tribunal or authority concerned, with a direction to reconsider it in accordance with the findings of the Court.

Court fees

16. The Court fees shall be paid as provided in the Second Schedule to these Rules.

Matters not provided for in these Rules

17. Where there is any matter not provided for in these Rules, the practice and procedure applicable to the High Court shall apply.

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## SCHEDULES

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**FIRST SCHEDULE**

**FORM A**

*(Made under rule 5(3))*

APPLICATION FOR LEAVE

IN THE HIGH COURT OF TANZANIA
MAIN REGISTRY/DISTRICT REGISTRY

In the.....Registry/ District Registry at.....Miscellaneous Cause No.....of.....
In the Matter of an application for leave to apply for orders of *mandamus*/prohibition/*certiorari*
In the matter of .....

Between

..... Applicant

*And*

.....Respondent

Chamber Summons (*Ex- parte*)

(Made under.....)

**LET THE APPLICANT** appear before Honorable .....sitting in chambers, on the.....day of..... 20.... at 8:30 in the forenoon or sooner thereafter, when the applicant/counsel for the applicant may be heard on an application for the following orders;-

(a) .....
(b) .....
(c) .....

This application is brought at the instance of **.....** and is supported by the statement of the applicant and the affidavit(s) of**.....**

Given under my hand and seal of this Court, this .....day of.....20.....

**REGISTRAR**

Presented for filing this .....day of.....20.....

**REGISTRY OFFICER**

***DRAWN AND FILLED BY:***
**.....**
***TO BE SERVED UPON:***
**.....**

**FORM B**

*(Made under rule 8(2))*

CHAMBER SUMMONS
IN THE HIGH COURT OF TANZANIA
MAIN REGISTRY/DISTRICT REGISTRY
AT.....

In the Main Registry/ District Registry at.....Miscellaneous Cause No.....of.....
In the Matter of an application for order(s) of *mandamus*/prohibition/*certiorari*
In the matter
of.....

Between

.....

.....Applicant

And

.....Respondent

Chamber Summons

*(Made under.....)*

**LET THE PARTIES** appear before Honorable .....sitting in chambers, on the.....day of..... 20.... at 8:30 in the forenoon or sooner thereafter, when the applicant/counsel for the applicant may be heard on an application for the following orders:

(a) ...
.....

(b) ...
.....

(c) .
.....

This application is brought at the instance of ..... and is supported by the affidavit of.....and the statement in respect of which leave was granted.
Given under my hand and seal of this Court, this.....day of.....20..... .....

**REGISTRAR**

Presented for filing this.....day of .....20.....
.....

**REGISTRY OFFICER**

***DRAWN AND FILLED BY:***

.....

***TO BE SERVED UPON:***

.....

## SECOND SCHEDULE

*(Made under rule 14)*

## COURT FEES

| *Item* | | **Fee** |
|---|---|---|
| (a) | On filing an application for leave by way of chamber summons supported by an affidavit. | Tshs. 50,000/= |
| (b) | On filing a statement in support of the application for leave | Tshs. 20,000/= |
| (c) | On filing an application for order. | Tshs. 100,000/= |
| (d) | On filing a counter affidavit by a person other than the Attorney General. | Tshs. 10,000/= |
| (e) | On filing a statement in reply by a person other than the Attorney General. | Tshs. 20,000/= |
| (f) | For every an nexture filed with an affidavit or statement or counter affidavit or statement in reply. | Tshs. 5,000/= |

Dar es Salaam,
26th May, 2014

**MOHAMED CHANDE OTHMAN**
*Chief Justice*