

## GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 28 OF 2012

**The High Court Act**  
(Laws, Volume 3, Cap. 27)**The High Court (Electronic Filing) Rules, 2012**

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IN EXERCISE of the powers contained in section *forty-four* of the High Court Act, the following Rules are hereby made:

PART I  
PRELIMINARY

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|--|----------------|
| 1. These Rules may be cited as the High Court (Electronic Filing) Rules, 2012.   | Title          |
| 2. In these Rules, unless the context otherwise requires—  | Interpretation |
| “case management system” means the system used by the Registrar and the Court to calendar, assign and track cases;   |                |
| “conventionally file” means the act of filing or serving of paper documents;   |                |
| “document management system” means the electronic document storage and imaging system maintained by the Registrar;   |                |
| “e-filing” means electronic transmission of an original document to the Court;   |                |
| “electronic service” means electronic transmission of a document to parties as required by a written law and rules of a court and as designated by the filing party;                             |                |
| “electronic document” means an original document filed with the Registrar in electronic format;  |                |
| “filing” means the act of submitting documents, electronically or in paper form, to the Registrar for filing;  |                |
| “hyperlink” means an electronic connection or reference to another place in a document, such that when selected, the user is taken to the portion of the document to which the hyperlink refers; |                |
| “ID” means a unique user identification;   |                |
| “parties” means the parties related to a case, including a plaintiff and defendant or an advocate representing a plaintiff or defendant;   |                |
| “PDF” means portable document format, a file format that preserves all fonts, formatting colours and graphics of any source document, regardless of the application platform used;               |                |
| “Registrar” means a Registrar or Deputy Registrar appointed under section <i>seven</i> of the Act;   |                |
| “TIFF” means a Tag Image File Format, a standardised file format used to store imaged documents;   |                |

“scanned document” means an electronic image created by scanning a paper document; and

“source document” means the document as originally submitted to the Registrar for filing.

## PART II ELECTRONIC FILING

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|---------------------------------------|--|
| Documents not permitted to be e-filed | 3. Notwithstanding any other rules of court, the following types of documents shall be filed conventionally, unless expressly required to be filed electronically by the Court:  |
| Cap. 88                               | <p>(a) any document required to be filed under the Criminal Procedure Code Act;</p> <p>(b) documents filed under seal;</p> <p>(c) audio recordings not expressly authorised by the Court, in writing, for filing electronically; and</p> <p>(d) affidavits of service for conventionally served or filed documents.</p>  |
| General e-filing guidelines           | <p>4. (1) Where a matter requires the filing of a document, that document may be filed electronically.</p> <p>(2) Any case participant with standing to file conventionally with the Court may file electronically in accordance with these Rules and all applicable laws and rules of Court.</p> <p>(3) A party appearing in person may file documents using e-filing or conventional filing.</p>   |
| E-filing implementation               | 5. All pleadings, motions, memoranda, orders and other documents electronically filed in a matter shall be maintained in electronic format by the Registrar and shall be maintained as the original and official record of the Court.  |
| Format of e-filed documents           | <p>6. (1) A filing party shall ensure that an electronically filed document is formatted in accordance with the applicable rules governing formatting of paper documents, rules of procedure and such other formats as the Court may require:</p> <p style="padding-left: 40px;">Provided that those formats shall not cause participants to a matter to invest significant resources in making changes to the document.</p> <p>(2) The Registrar shall not reject a document solely for the reason that it is not in substantial conformity with a specific rule of procedure or written law.</p> |
| Accepted file formats                 | 7. (1) A participant may electronically transmit a document in Microsoft Word, Microsoft Works, Microsoft Excel, Rich Text   |

Format, WordPerfect, Portable Document Format and any standard nonproprietary graphic formats.

(2) All documents electronically filed shall, upon acceptance and filing by the Registrar, be converted to Portable Document Format in compliance with the requirements set out in these Rules.

(3) The Court may require a participant to produce the original of a scanned exhibit that has been filed electronically by the participant.

(4) Parties and other case participants shall ensure that all proposed forms of order are submitted electronically in a Microsoft Word file format.

8. (1) An electronically filed document may include hyperlinks, bookmarks and other electronic navigational aids for the convenience of the Court.

Hyperlinks,  
bookmarks  
and other  
electronic  
navigational  
aids

(2) A hyperlink shall not form part of the filed document.

(3) Each hyperlink shall contain a text reference to the target of the link.

(4) Notwithstanding anything contained in these Rules, a hyperlink shall not form part of the official court record and shall not be preserved in electronically filed documents submitted and stored on the Registrar's electronic document management system.

9. (1) The Registrar shall register every party and practitioner and provide each with a personally selected user name (ID) and password.

User ID and  
electronic  
signatures

(2) The user name referred to in sub-rule (1) shall, when used in conjunction with the personally selected password, constitute a signature of the registered participant on documents submitted to the Court or by the Court.

(3) Notwithstanding sub-rule (2), a participant may apply an electronic signature to a document to be submitted to the Court.

(4) In order to ensure the intent of the filing participant, the signature line on an electronically filed document shall bear the printed name of the filing participant preceded by the symbol "/s/".

(5) An electronic document may be signed by the Registrar through the use of a printed signature preceded by the "/s/" symbol or through the use of the Court's e-filing Manager (EFM) application judicial signature stamp.

(6) The e-filing Manager (EFM) application judicial signature stamp shall be merged with the electronic document and shall be visible when the document is printed and viewed electronically.

(7) A document requiring the signature of a party or participant or other identifying indicators shall be filed with the court in paper format and scanned and maintained consistent with applicable record retention schedules and archival rules.

File  
transmission,  
confirmation,  
acceptance  
and  
rejection

10. (1) The Registrar shall, upon completion of the transmission of an electronic document for filing, immediately scan the document for viruses.

(2) Where the document transmitted under sub-rule (1) is free from infection, the document shall be deemed submitted and the Registrar shall send an acknowledgment of receipt of the document to the filing participant.

(3) A document which has been successfully received shall be reviewed for compliance with all standard filing practices and, if it complies with the standards, shall be accepted and deemed filed as of the date and time it was received by the Registrar's e-filing system.

(4) Where a document is infected, the Registrar shall discard and send the document with a notice to the filing participant that the document was infected and has not been filed.

(5) A notice under sub-rule (4) shall be sent to a filing participant or any authorised third party facilitating entity and shall set forth the grounds for rejection.

(6) A party whose document has been rejected may re-submit any rejected document with appropriate corrections.

(7) A document received under sub-rule (4) shall be received subject to such review, payment of applicable fees and acceptance by the Registrar.

(8) The Registrar shall, upon completion of the electronic filing review process, send notification of the filing's status and, if accepted, the official file date and time of the filing.

(9) A document accepted for filing by the Registrar shall be electronically file stamped with the time and date of filing and the name of the Registrar accepting the filing, and the words "ELECTRONICALLY FILED."

(10) The file stamp referred to in sub-rule (9) shall be merged with the electronic document and shall be visible when the document is printed and viewed online.

(11) An electronically filed document that does not bear an electronic file stamp shall be deemed to be incomplete.

(12) An e-filing file stamped in accordance with these Rules shall have the same force and effect as documents filed in the conventional manner.

11. A participant who files a document electronically shall have the same responsibility as a person filing a document in paper format for ensuring that the document is properly filed, complete and legible and that the appropriate copies have been provided to other parties in the case.

Responsibility  
for filing

12. (1) Notwithstanding any other rules of court, a party who files any document electronically with the Registrar shall not submit a courtesy paper copy of the document to the Court unless ordered by the Court to do so.

Original  
documents to  
be maintained  
by filing  
party

(2) Where the Act requires a pleading or affidavit to be attested or sworn to, the original signed affidavit or pleading shall be maintained by the advocate or self-represented litigant and produced in its original form within five days at the demand of another party or the Court:

Provided that the original hard copy shall be maintained by the filing party.

(3) An affidavit may be e-filed but the filing party shall maintain the signed original.

### PART III

#### SERVICE

13. (1) Where electronic service is available through the provided e-filing system, electronic service shall comply with all applicable court rules.

Electronic  
service to  
other parties

(2) Where the e-filing system does not provide a means for electronic service, the filing party shall serve other parties with any filed process or document as would be done when filing a document conventionally.

14. (1) Where a document has been served electronically, the document shall be deemed to have been received when it has arrived at the server for incoming communications in connection with which the user ID or signature is associated.

Proof of ser-  
vice

(2) Where a document has been served electronically, the burden of disproving the service shall be with the served party.

PART IV  
GENERAL PROVISIONS

- Public access**      15. (1) The Registrar shall make electronically filed and scanned documents available to case participants, the Court and the public.
- (2) The public may access electronically filed and scanned documents of public record in the manner stipulated by the Registrar.
- (3) The Registrar shall cause to be maintained, for the purpose of facilitating retrieval of electronically maintained documents by the public, access to an electronic document management system.
- Lodgement documents**      16. A document required to be lodged with the Court and any draft order shall be transmitted electronically to the Court and other parties through the provided electronic filing system.
- Printing of e-filed documents**      17. An electronically filed document shall be maintained in a printable format with the same content and formatting as if printed from its authoring program.
- Certified copies**      18. A certified copy of an electronically filed document shall not be obtained electronically and be issued in the conventional manner by the Registrar.
- Payment of filing fees**      19. Where an e-filing requires a filing fee, the Registrar shall, prior to accepting an e-filed document, assess the fee and notify the filing party to make the appropriate payment.
- Interruption in service**      20. (1) The Court and Registrar shall not be liable for any malfunction or error occurring in electronic transmission or receipt of electronically filed documents.
- (2) Notwithstanding any other Rule, where an e-filing is not filed with the Registrar by reason of an error in the transmission of the document that was unknown to the sending participant or a failure to process an electronic filing after receipt, the Court may enter an order permitting the document to be filed retrospectively to the date it was sent electronically.
- Court orders and judgments**      21. (1) Subject to the provisions of these Rules, the Court may issue, file and serve notices, orders and other documents electronically in an e-file case.
- (2) Where a Registrar is required to endorse a document, the typed name of the Registrar shall be deemed to be the Registrar's signature on an electronic document.



22. (1) The Court or the Registrar may determine, if necessary, special instructions connected with e-filing cases in the Court and shall notify the parties involved in the case through an electronic entry of any special circumstances surrounding their case.

Special instructions where rules not complied with

(2) The Registrar or the Court shall determine if any filing deadlines may be extended as a result of the rejection of the e-filed documents.

(3) The Registrar may order the filing party to electronically refile any document that is not in compliance with these rules or may order the document to be filed conventionally.

23. Where a Court transfers a case previously assigned to a Court participating in e-filing to a Court that is not participating in e-filing, filing parties shall no longer be required to electronically file documents and shall file the document conventionally.

Judicial transfers outside an e-filing court

24. (1) The filing fees applicable to a conventional document shall apply to an electronic document.

Fees

(2) A document that has been electronically filed which requires to be accompanied by a fee may be rejected within two days from the date of submission of the document if payment has not been rendered.

E. L. SAKALA,  
*Chief Justice*

LUSAKA  
27th April, 2012

