



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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### Government Notices

#### MINISTRY OF JUSTICE

No. 227 2014

#### AMENDMENT OF RULES OF HIGH COURT OF NAMIBIA: HIGH COURT ACT, 1990

Under section 39 of the High Court Act, 1990 (Act No. 16 of 1990), with the approval of the President of the Republic of Namibia, I have amended the Rules of the High Court of Namibia published under Government Notice No. 4 of 17 January 2014 by the repeal of rule 78 of those rules.

**P.T. DAMASEB**  
**JUDGE-PRESIDENT**  
**HIGH COURT OF NAMIBIA**

Windhoek, 24 October 2014

#### MINISTRY OF JUSTICE

No. 228 2014

#### RULES OF ELECTORAL COURT: ELECTORAL ACT, 2014

In terms of section 206(1) of the Electoral Act, 2014, (Act No. 5 of 2014), I have, after consultation with the Magistrates Commission, made the rules set out in the Schedule.

**P.T. DAMASEB  
CHAIRPERSON  
ELECTORAL COURT**

Windhoek, 24 October 2014

**SCHEDULE**

**ARRANGEMENT OF RULES**

**Rule**

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**Definitions**

**1.** In these rules, a word or an expression to which a meaning has been given in the Act has that meaning, and unless the context indicates otherwise -

“affidavit” has the meaning given to it in rule 1 of the Rules of the High Court;

“case management conference” has the meaning given to it in rule 1 the Rules of the High Court;

“chairperson” means the chairperson of the Electoral Court;

“court” means the Electoral Court established by section 167 of the Act, and situated at the seat of the High Court;

“court day” means any day which is not a Saturday, Sunday or public holiday, and only court days must be included in the computation of any time expressed in days prescribed by these rules, fixed by any order of court or stipulated in any judicial case management order;

“day” means a court day;

“deliver” has the meaning given to it in rule 1 the Rules of the High Court;

“document”, includes a handwritten or typed document, a computer print-out, a print-out from any equipment or device capable of generating a print-out, a pleading, photograph, film, recording of sound, plan, record of a permanent or semi-permanent character and information recorded or stored electronically or by means of any equipment or device;

“file” has the meaning given to it in rule 1 the Rules of the High Court;

“flexible radius” has the meaning assigned to it in rule 1 of the Rules of the High Court;

“Government Attorney” means the Government Attorney referred to in the Government Attorney Proclamation No. R 161 of 1982;

“High Court” means the High Court of Namibia referred to in the High Court Act, 1990 (Act No. 16 of 1990);

“Judicial Case Management” referred to in these rules as ‘JCM’, means the judicial case management of cases in terms of Part 3 of the Rules of the High Court;

“legal practitioner” means a person who, in terms of the Legal Practitioners Act, 1995 (Act No. 15 of 1995), has been admitted and authorised to practise as a legal practitioner or is deemed to have been so admitted and authorised and practises for personal gain or is in the service of a law centre or the State;

“local division” means a local division of the High Court sitting at a place other than the seat of the High Court;

“managing judge” has the meaning given to it in rule 1 of the Rules of the High Court;

“notice” means notice in writing;

“process” has the meaning given to it in rule 1 of the Rules of the High Court;

“record”, includes all papers, print-outs, documents, correspondence, notices, and evidence presented to the Commission and any decision taken by the Commission and the record of proceedings conducted by electoral tribunals;

“registrar” means the registrar referred to in rule 1 of the Rules of the High Court;

“Rules of the High Court” means the Rules of the High Court of Namibia promulgated under Government Notice No. 4 of 17 January 2014;

“seat of the High Court” means the seat of the High Court referred to in section 4 of the High Court Act, 1990 (Act No. 16 of 1990);

“serve” means to serve in accordance with rule 4;

“the Act” means the Electoral Act, 2014 (Act No. 5 of 2014); and

“tribunal” means the electoral tribunal established by section 162 of the Act.

### Sessions of court

2. The sessions of the court are the same as those applicable to the High Court as determined in practice directions issued under rule 3 of the Rules of the High Court.

### Registrar's office hours

3. (1) The offices of the registrar must, except on Saturdays, Sundays and public holidays, open from 09h00 to 13h00 and from 14h00 to 15h00 for the purpose of issuing any process or filing any document, but for the purpose of filing a notice of intention to oppose an appeal or a notice of intention to oppose an application, the offices must open from 09h00 to 13h00 and from 14h00 to 16h00.

(2) Despite subrule (1), the registrar -

- (a) may in exceptional circumstances issue process or accept documents at any time and in that case he or she must record in writing those exceptional circumstances and place such record on the file in question and cause a copy thereof to be served on every party; and
- (b) must issue process or accept documents for filing at any time when directed to do so by the chairperson or a judge of the court.

### Service of process

4. (1) A party requiring any process to be served under these rules may serve the process itself or cause the process to be served by the deputy sheriff of the High Court or by any person designated in writing by the party.

(2) Service of a process may be effected in any one of the following ways -

- (a) by handing a copy of the process to -
  - (i) the person concerned, or to a representative authorized by that person to accept service on behalf of that person; or
  - (ii) a person who appears to be at least 16 years old and in charge of the first named person's place of residence, business or place of employment at the time;
- (b) by leaving a copy of the process at -
  - (i) an address chosen by the person to receive service;
  - (ii) any premises in accordance with subrule (4);
- (c) if the person to be served is represented by a legal practitioner of record, by delivery thereof -
  - (i) at the address appointed in such legal practitioner's notice of representation; or
  - (ii) to a person apparently not less than 16 years of age and employed at the office of the legal practitioner;

- (d) by faxing a copy of the process to the person's fax number or a fax number chosen by the person to receive service; or
  - (e) by sending a copy of the process by registered post to the last known address of the registered political party or registered organization or an address chosen by the party or organization to receive service in which case the process is presumed, until the contrary is proved, to have been received by the person to whom it was sent within seven days after it was posted.
- (3) Process may also be served -
- (a) on a registered political party or registered organization, by handing a copy of the process to a responsible employee or official at the registered office of the political party or organization;
  - (b) if the political party or organization to be served is represented by a legal practitioner of record, by delivery thereof at the address appointed in such legal practitioner's notice of representation or to a person apparently not less than 16 years of age and employed at his or her office;
  - (c) on the Commission, by handing a copy to a responsible employee at the offices of the Government Attorney.
- (4) If no person identified in subrules (2) and (3) is willing to accept service, service may be effected by affixing a copy of the process to -
- (a) the main gate or door of the premises or registered office concerned; or
  - (b) if the premises or office contemplated in paragraph (a) is not accessible, a post-box or other place to which the public has access.
- (5) The chairperson or a judge of the court sitting in chambers may direct that service be effected in a manner other than prescribed in this rule.
- (6) A party must prove that a process was served in terms of these rules, by providing the Court or the registrar with duly completed Form 1, and with -
- (a) a copy of proof of mailing of the process by registered post to the other party;
  - (b) a copy of the telefax report indicating the successful transmission to the other party of the whole process; or
  - (c) if process was served by hand -
    - (i) a copy of a receipt signed by, or on behalf of, the other party clearly indicating the name and designation of the recipient and the place, time and date of service; or
    - (ii) a statement confirming service signed by the person who delivered a copy of the process to the other party or left it at any premises or registered office or the place accessible to the public.
- (7) If proof of service in accordance with subrule (6) is provided, it is presumed, until the contrary is proved, that the party on whom it was served has knowledge of the contents of the process.

(8) The court may, on good cause shown, accept proof of service in a manner other than prescribed in this rule as sufficient.

(9) Service may be effected at any time between 07h00 and 19h00 on any day, including Saturday, Sunday and a public holiday, unless the chairperson or a judge of the court directs otherwise.

### **Applications**

**5.** (1) Every application must be brought on notice of motion supported by an affidavit as to the facts upon which the applicant relies for relief and such affidavit must also disclose clearly and specifically the nature of the grievance the applicant has, the reason for the grievance and the material facts relied on.

(2) When relief is claimed against any person, or where it is necessary or proper to give any person notice of such application, the notice of motion must be addressed to both the registrar and such person, otherwise it must be addressed to the registrar only.

(3) The notice of motion must be on Form 2.

(4) The original notice of motion, together with all annexures, must be filed with the registrar after service of a true copy thereof upon every party to whom notice of the application is to be given.

(5) In the notice of motion the applicant must -

- (a) appoint an address within a flexible radius of the office of the registrar at which he or she will accept service of all documents in the proceedings; and
- (b) inform the respondent that if he or she intends to oppose the application, he or she must, within five days after service of the notice of motion upon the respondent, deliver to the registrar and to the applicant a notice to oppose on Form 5.

(6) If no notice to oppose is delivered as contemplated in subrule (5)(b), the applicant may in writing apply to the registrar to assign a date for the hearing of the application.

(7) On receipt of an application contemplated in subrule (6), the registrar, after consultation with the chairperson, must assign a date for the hearing of the application and may, without notice to the respondent, set the matter down for hearing on that date.

(8) A respondent who does not deliver a notice of his or her intention to oppose within the period of time referred to in subrule (5)(b) is not entitled to take part in the proceedings except to -

- (a) apply under rule 19 for an extension of time to deliver such a notice;
- (b) be called as a witness by another party.

(9) Any respondent opposing the grant of the relief sought in the notice of motion must -

- (a) within five days of service of the notice of motion, give the applicant notice on Form 5 that he or she intends to oppose the application and, in that notice, appoint an address within a flexible radius from the office of the registrar at which he or she will accept notice and service of all documents in the proceedings; and
- (b) within seven days of notifying the applicant of his or her intention to oppose the application -

- (i) deliver an answering affidavit together with any relevant documents; or
- (ii) if he or she intends to raise a point of law only, deliver notice of such intention stating concisely the point of law.

(10) Within three days after the service upon him or her of the answering affidavit the applicant may deliver a replying affidavit.

(11) After service of the replying affidavit contemplated in subrule (10) no further affidavit may, without the leave of the court, be filed with the court.

(12) After the expiration of the seven-day period mentioned in subrule (9)(b) the applicant may apply to the registrar, on three days' notice to all other parties, to assign a date for the hearing of the application and the registrar must, after consultation with the chairperson and subject to rule 9(2), assign such a date and set the matter down for hearing on that date.

(13) If the applicant fails to apply to the registrar for a date of hearing within 10 days of receiving the respondent's notice of intention to oppose, the respondent may make such an application.

(14) The applicant or the respondent, as the case may be, must give notice in writing of the date of hearing assigned by the registrar to all other parties to the application except that no notice is required to be given to a person who did not oppose the application as contemplated in subrule (8).

(15) Where an application cannot properly be decided on affidavit the court may make such an order as it considers fit with a view to ensuring a just and expeditious decision.

(16) In particular, but without affecting the generality of the provisions of subrule (15), the court may direct that oral evidence be heard on specified issues with a view to resolving any dispute of fact and to that end may order any deponent to appear personally or grant leave for him or her or any other person to be subpoenaed to appear and be examined and cross-examined as a witness.

(17) Any party to an application may bring a counter-application on Form 4 and the provisions of these rules do, subject to necessary modifications, apply to a counter-application, except that -

- (a) a counter-application must be delivered together with the respondent's answering affidavit, unless the court allows it, on good cause shown, to be delivered at a later stage;
- (b) it is not necessary to repeat therein the addresses of the parties to the proceedings in question.

(18) Any period prescribed with regard to an application does apply, with necessary modifications, to a counter-application.

(19) A counter-application may be heard either together with, or separately from, the application as the court may consider appropriate under the circumstances.

(20) Despite the provisions of subrules (1) to (19), any interlocutory and any other application incidental to pending proceedings may be brought on notice on Form 2 supported by such affidavits as the case may require and may be set down for hearing at a time assigned by the registrar or as directed by the chairperson.

(21) In urgent applications the court may dispense with the forms and service provided for in these rules and may dispose of the matter at such time and place and in accordance with such procedure (which must as far as practicable be in terms of these rules) as it considers just and equitable in the circumstances.

(22) In every affidavit filed in support of an application brought under subrule (22), the applicant must set out explicitly -

- (a) the circumstances which he or she avers render the matter urgent;
- (b) the reasons why he or she could not be afforded substantial redress at a hearing in due course.

(23) The court may, on application at any stage of the proceedings, order to be struck out from any affidavit any matter which -

- (a) is scandalous, vexatious or irrelevant;
- (b) is otherwise an abuse of the process of the court,

but the court may not make such an order unless it is satisfied that the party applying will be prejudiced in his or her case if such an order is not made.

(24) Subject to section 171 of the Act, the court may, on such application, make such order as to costs as it considers fit.

(25) Subject to the discretion of the court to disregard such statements if it considers it proper to do so, an affidavit may contain statements of information or belief provided that the sources and grounds thereof are identified.

(26) Not less than five days before the hearing date the applicant, if he or she is represented by a legal practitioner, must deliver a copy of the heads of argument which he or she intends to argue at the hearing as well as a list of authorities to be relied on in support of each point to the other parties to the application and the other parties, if they are represented by a legal practitioner, must deliver to the applicant similar heads of argument and list of authorities not less than two days before the hearing date.

(27) The original and two copies of all such heads of argument and lists of authorities must be filed with the registrar before 12h00 on any day within the time limits referred to in subrule (26).

### **Joint applications**

**6.** (1) An application (in this rule referred to as a “joint application”) may be brought on behalf of a group of applicants named in such joint application against the same respondent and for a similar claim.

(2) A joint application referred to in subrule (1) may be brought in the name of any one of the applicants as a representative of some or all of the other applicants, provided that such other applicants agree thereto in writing and file the agreement on Form 7 simultaneously with the lodging of the application.

(3) In the agreement referred to in subrule (2), each person represented authorises the representative applicant on his or her behalf to -



- (a) file affidavits, statements or any other documents;
- (b) amend the application or abandon it;
- (c) call witnesses and give evidence and make submissions to the court on any matter arising during the hearing of the application; and
- (d) take any other necessary step incidental to the prosecution of the application.

(4) The court may, of its own motion or upon application, at any stage of the proceedings, if it considers that the bringing of a joint application may prejudice the respondent, order that the applications of all or any of the persons represented be heard separately.

(5) The court may, on application of an individual applicant in a joint application at any stage of the proceedings and on good cause shown, order that that applicant's authorisation to the representative applicant be rescinded and that that applicant be permitted to pursue the application separately.

### **Consolidation of applications**

7. (1) If two or more applications are filed and it appears to the court that -
- (a) common questions of law or fact arise in both or all of them;
  - (b) the applications arise out of the same cause of action; or
  - (c) it would be in the interest of justice,

the court may of its own accord or upon application by one or more of the parties order that such applications be consolidated.

(2) The power conferred by this rule may be exercised despite the fact that the hearing of one or more of the applications has already commenced.

### **Joinder of parties**

8. (1) The court may at any time on notice on Form 8 to all parties, or on application by a party on notice to all other parties, make an order joining a person in the proceedings and give such directions including the manner of service of process on the person joined as it considers necessary.

(2) An order to join may only be made where the party to be joined has a direct and substantial interest in the matter before the court.

(3) The court may likewise on notice on Form 8 to all parties or on application by any party on notice to all other parties, order that any respondent named in the original application or subsequently joined, who does not have a direct and substantial interest in the dispute, be released from the proceedings.

### **Hearing of applications**

9. (1) Subject to section 169 of the Act, the hearing of an application must be conducted in such manner as the court considers most suitable for the clarification of the issues before it and generally to the just handling of proceedings, and the court must, as far as it is appropriate, seek to avoid formality in the proceedings in order to ensure a speedy and fair disposal of the proceedings.

- (2) An application under this rule must be heard within five days after the conclusion of the -
- (a) case management conference, where only one case management conference is held; or
  - (b) last case management conference, where more than one case management conference is held.
- (3) If a respondent who has -
- (a) been duly served with the notice of motion as provided for in rule 5(4); or
  - (b) delivered notice of intention to oppose has been duly served with notice of the date of the hearing as provided for in the rule 5(14),
- fails to appear at the hearing of the application the court may, if it is of the opinion that the facts relating to the application are sufficiently established, determine the application and make such order as it considers fit, despite the respondent's failure to appear.
- (4) If the applicant fails to appear at the hearing the court may dismiss the application or make such other order as it considers fit, if the court is of the opinion that the facts relating to such other order are established.
- (5) Where an application is referred to oral evidence -
- (a) the chairperson must order the parties on Form 9 to serve on the other party a witness statement of the oral evidence which the party serving the statement intends to adduce during the hearing of the oral evidence in relation to any issues of fact to be decided at the hearing;
  - (b) the witness who makes a statement referred to in paragraph (a) must indicate at the end of his or her statement that he or she believes that the facts stated in the statement are true to the best of his or her knowledge; and
  - (c) the court may give directions as to the order in which witness statements are to be served.
- (6) Where the court has directed that a witness statement in a language other than English is to be filed with the court -
- (a) the party wishing to rely on it must have it translated into English by a sworn translator and must file with the court both the sworn translated statement and the witness statement that is in the other language; and
  - (b) the sworn translator referred to in paragraph (d) must depose to and file with the registrar an affidavit verifying the translation and exhibiting both the translation and a copy of the witness statement that is in the other language;
- (7) A witness statement referred to in subrule (5)(a) may be used only for the purpose of the proceedings in which it is served;
- (8) If a party has served a witness statement and he or she wishes to rely at the trial on the evidence of that witness he or she must call the witness to give oral evidence and at the hearing that -

- (a) witness's statement will stand as his or her oral evidence-in-chief unless the court orders otherwise; and
- (b) witness when giving oral evidence may, with the leave of the court, amplify his or her witness statement and give evidence in relation to new matters which have arisen since the witness statement was served on the other parties, except that the court may give such leave only if it considers that there is good reason not to confine the evidence of the witness to the contents of his or her witness statement.

(9) Before the witness reads his or her witness statement into the record, the chairperson or a judge must admonish the witness in the following terms -

*'The oath you have just taken or the affirmation you have just made requires you to tell the truth, the whole truth and nothing but the truth.'*

*Do you confirm that your legal practitioner has prepared a witness statement to constitute your evidence-in-chief in this case?*

*Do you also confirm that the information contained in the statement was provided by you to your legal practitioner and that it is information of which you bear personal knowledge?*

*Because of the oath you have taken or the affirmation you have made, I want you to understand that once you have read the statement into the record that statement is your evidence given under oath or affirmation in the proceedings and that if anything in it is not true and you are aware of such fact, you may be liable for perjury. Do you understand?"*

*Therefore, if anything in the statement is not true or is inaccurate, it is your duty to tell me so and to state the true or correct facts. Do you understand?"*

(10) If a witness statement for use at the hearing is not served within the time specified by the court, the witness may not be called to give oral evidence unless the court on good cause shown permits such witness to give oral evidence.

(11) Where a witness is called to give evidence at a trial he or she may be cross-examined on his or her witness statement only and not on the statement of any other witness who has been called to testify for the party who called him or her to testify.

(12) During proceeding in terms of this rule any person may request the court to direct that a witness statement is not open for inspection by the public or is not available to persons not acting as professional advisors of the party in possession of the statement because of -

- (a) the interests of justice;
- (b) the public interest; or
- (c) the need to protect the interests of a child, patient or person under physical or mental disability,

and the court may, if is satisfied that there is justification for the request, make an order to the effect.

(13) Where evidence may conveniently or more reasonably be heard in another local division of the High Court, the chairperson may give an order that such evidence be heard in such local division.

**Summoning of witnesses**

**10.** (1) Where the court has directed that oral evidence be heard before an application can be determined -

- (a) the court; or
- (b) a party to such application,

may require the registrar to summon any witness to give evidence or to produce any document, record or other exhibit relevant to any issue relating to such application.

(2) Where a party to an application referred to in subrule (1)(b) requires a witness to be summoned he or she must make a request to the registrar for summoning of the witness on Form 6.

(3) A party to an application referred to in subrule (1)(b) may, after commencement of the hearing, require the summoning of a witness only with the consent of the court.

(4) Where a witness is to be summoned, the summons must be on Form 6 and service of the summons may be effected in the same manner as provided in rule 4, subject to necessary modifications.

(5) The court may set aside service of any summons referred to in subrule (1) if it appears that the witness in question was not given reasonable time to enable him or her to appear in response to the summons.

(6) The provisions of sections 26 and 27 of the High Court Act, 1990 (Act No. 16 of 1990), relating to the manner of securing attendance of witnesses, fees and allowances to be paid to witnesses and the penalty for non-attendance and the manner in which recalcitrant witnesses may be dealt with, subject to necessary modifications, apply to a witness summoned under this rule as if such witness has been subpoenaed in a civil action before the High Court.

(7) The fees and allowances referred to in subrule (6) must be paid by the party who requires the attendance of the witness concerned.

**Evidence**

**11.** The court -

- (a) is not bound strictly by the rules of evidence which apply in civil proceedings in the High Court; and
- (b) may disregard any technical irregularity which does not or is not likely to result in absence of due administration of justice in the proceedings.

**Application of JCM to applications under Act**

**12.** (1) Without derogating from the generality of rule 24(2), the responsibilities and duties of parties regarding the case management of an application under the Act are the following -

- (a) once an application is filed with the court, the management of that application lies with the court and not the litigants or their legal practitioners;
- (b) the parties and their legal practitioners have a duty to assist the court in curtailing proceedings and to expedite determination of an application;

- (c) the fact that the parties agree to allow each other time beyond that prescribed by these rules is not binding on the court; and
- (d) where there is a conflict between any provision of rules 5 and 6 and this rule, this rule applies.

(2) As soon as practicable after the application has been placed before him or her, the chairperson or the judge must manage the application.

(3) Not less than two days before the holding of a case management conference the parties must hold a parties' case management meeting and -

- (a) discuss the nature and basis of their respective claims and defences;
- (b) consider reasonable ways in which the application may be determined promptly; and
- (c) set out concisely and clearly the issues they jointly and severally wish to be addressed during the case management conference.

(4) At the conclusion of the parties' case management meeting the parties by themselves or by their legal practitioners must draw up and sign a report containing -

- (a) the matters they have discussed and agreed on;
- (b) the matters they have discussed and have not agreed on;
- (c) the issues referred to in subrule (5),

and submit the report to the registrar who must place the report before the chairperson or a judge at least one day before the holding of a case management conference.

(5) The case management conference must be held within three days after the close of pleadings and the following issues must be addressed at the conference -

- (a) any proposal regarding an issue referred to in subrule (3), whether agreed by the parties or not;
- (b) reasonable ways in which issues may be limited and admissions and concessions made which may lead to the narrowing of the issues to be adjudicated;
- (c) the need for interlocutory applications and the date for the hearing of those applications by the chairperson or judge;
- (d) the hearing and determination of any preliminary objection on points of law;
- (e) indexing, pagination, and binding of all the pleadings and documents filed of record;
- (f) determining the date of the hearing of the application; and
- (g) any other issues which, in the opinion of the chairperson or judge may facilitate the just and speedy determination of the application.

(6) Where it is shown by a party at the case management conference that an interlocutory application referred to in subrule (5)(c) is intended -

- (a) the interlocutory application must be heard within three days after the conclusion of the case management conference;
- (b) heads of argument of all parties must be filed not more than two days before the hearing of any interlocutory application; and
- (c) a ruling must be made not more than two days before the hearing of the main application.

(7) If in the opinion of the managing judge it is necessary to hold a further case management conference, that conference must be held so soon after the case management conference in question and in any case not more than two days before the hearing of the main application.

(8) A case management conference must be held in the chambers of the chairperson or judge or in open court at the discretion of the chairperson or judge, and the proceedings must be recorded and the conference must be attended by legal practitioners or parties, if unrepresented by legal practitioners.

(9) The chairperson or judge must make an order in respect of any issue addressed and determined by him or her during a case management conference.

## **Reviews**

**13.** (1) This rule applies to an application -

- (a) to review a decision of an electoral tribunal in terms of the Act;
- (b) to review a decision of the Commission relating to an electoral issue.

(2) An application to which this rule applies must be made within 14 days after the decision came, or could reasonably have come, to the attention of the party.

(3) An application to which this rule applies must be brought on notice of motion on Form 3 supported by an affidavit setting out the grounds and the facts and the circumstances on which the applicant relies to have the decision reviewed and corrected or set aside.

(4) The notice must be directed and delivered to the Commission, the electoral tribunal and to all other persons directly and substantially affected -

- (a) calling upon the Commission or the electoral tribunal to show cause why such decision should not be reviewed and corrected or set aside; and
- (b) where appropriate, calling upon the Commission or the electoral tribunal, as the case may be, to within seven days after receipt of the notice -
  - (i) dispatch to the registrar the record of the proceedings sought to be corrected or set aside, duly certified by an authorised official of the Commission or the clerk or chief clerk of the electoral tribunal, together with such reasons as he or she desires or is by law required to give or make;
  - (ii) a serve a true and certified copy of the record referred to in subparagraph (i) on the applicant; and
  - (iii) notify the applicant that it has done so.

- (5) In the notice, the applicant must -
  - (a) appoint an address within a flexible radius of the office of the registrar at which he or she will accept notice and service of all process in the proceedings;
  - (b) inform the respondent that if he or she intends to oppose the granting of the order sought in the application he or she must deliver a notice to the applicant within five days after service of the notice of motion, or any notice amending the notice of motion, stating that he or she intends to oppose.
- (6) The applicant must verify the correctness of the copy so served on him or her, by comparing it with the original filed with the registrar and the applicant must -
  - (a) cause copies of such portions of the record as may be necessary for the purposes of the review to be made; and
  - (b) furnish the registrar with two copies and such number of additional copies as the registrar may request and each of the other parties with one copy thereof, in each case certified by the applicant as true copies.
- (7) The copies referred to in subrule (6) must be clearly typed on A4 standard paper in double spacing, and the pages thereof must be consecutively numbered, and in addition every tenth line on each page must be numbered.
- (8) The record must contain a correct and complete copy of the pleadings, evidence and all documents necessary for the hearing of the appeal, together with an index thereof, and the copies lodged with the registrar must be certified as correct by the legal practitioner or party lodging same or the person who prepared the record.
- (9) The applicant may, within five days after the registrar has made the record available to him or her, by delivery of a notice and an accompanying affidavit, amend, add to or vary the terms of the notice of motion and supplement the supporting affidavit.
- (10) Where a person to whom the notice of motion is directed desires to oppose the granting of the order sought in the application, he or she must -
  - (a) within five days after receipt by him or her of the notice of motion or any amendment thereof deliver notice on Form 5 to the applicant that he or she intends so to oppose the application, and must, in such notice, appoint an address within a flexible radius of the office of the registrar at which he or she will accept notice and service of all process in the proceedings; and
  - (b) within five days after receipt by him or her of a copy of the record of the proceedings sought to be reviewed, or where no such record is called for in the notice of motion, within three days after delivery by him or her of the notice to oppose, deliver an answering affidavit together with any relevant documents.
- (11) The applicant may within three days after service on him or her of the answering affidavit, deliver a replying affidavit.
- (12) No further affidavit may be filed without leave of the court.
- (13) After the expiration of the period of time allowed in subrule (10)(b) for delivery of an answering affidavit, the applicant may apply to the registrar on two days' notice to all other parties, to assign a date for the hearing of the application and the registrar must, after consultation with the chairperson, assign such a date and set the matter down for hearing on that date.

(14) If the applicant fails so to apply within three days after the expiration of the period of time referred to in subrule (13), the respondent may apply for a date of hearing in like manner.

(15) The applicant or the respondent must give notice in writing of the date assigned by the registrar to all other parties, except that no notice is required to be given to a person who did not oppose the application as contemplated in subrule (10).

(16) Not more than five days before the hearing date the applicant, if he or she is represented by a legal practitioner, must deliver to the other parties to the application a copy of the heads of argument which he or she intends to argue at the hearing as well as a list of authorities to be relied on in support of each point, and the other parties, if they are represented by a legal practitioner, must deliver to the applicant their heads of argument and list of authorities not less than two days before the hearing date.

(17) The original and two copies of all such heads of argument and list of authorities must be filed with the registrar not later than 12h00 on any day within the time limits referred to in subrule (16).

(18) Subrules (8), (20), (23), (24) and (25) of rule 5, apply with necessary changes or modifications required by the context to an application to which this rule applies.

## **Appeals**

**14.** (1) This rule applies to an appeal noted against -

- (a) a decision of an electoral tribunal;
- (b) a decision of the Commission,

made in terms of the Act.

(2) Subject to section 168(3) of the Act an appeal contemplated in subrule (1)(a) and (b) must be noted by delivery of a notice of appeal on Form 10, setting out concisely and distinctly which part of the decision or order is appealed against and the grounds of appeal, which the appellant relies for the relief sought.

(3) The notice of appeal referred to in subrule (2) must be delivered within 15 days after the decision or order appealed against came to the notice of the appellant.

(4) If the appeal is noted -

- (a) against a decision of the Commission in terms of the Act, the person to be made respondent is the Commission, and the Commission must be served in accordance with rule 4(3)(c);
- (b) against a decision of an electoral tribunal, the persons to be made respondents are the other parties who were cited in the proceeding before the tribunal, and they should be served in accordance with rule 4.

(5) Any person served with a notice of appeal pursuant to subrule (4) is, subject to section 169(3) of the Act, entitled to appear and be heard at the hearing of the appeal.

(6) The notice of appeal delivered in terms of subrule (3) must, where appropriate, call on the Commission or the electoral tribunal to, within 10 days after receipt of the notice -



- (a) dispatch to the registrar the record of the proceedings, appealed against duly certified by an authorised official of the Commission or the clerk or chief clerk of the electoral tribunal, together with such reasons as he or she desires or is by law required to give or make;
  - (b) a serve a true and certified copy of the record referred to in subparagraph (i) on the appellant; and
  - (c) notify the appellant that it has done so.
- (7) In the notice of appeal noted in terms of subrule (2), the appellant must -
- (a) appoint an address within a flexible radius of the office of the registrar at which he or she will accept notice and service of all process in the proceedings;
  - (b) inform the respondent that if he or she intends to oppose the appeal he or she must deliver a notice, on Form 11, to the appellant within five days after service of the notice of appeal, or any notice amending the notice of appeal, stating that he or she intends to oppose the appeal.
- (8) The applicant must verify the correctness of the copy so served on him or her, by comparing it with the original filed with the registrar and the appellant must -
- (a) cause copies of such portions of the record as may be necessary for the purposes of the appeal to be made; and
  - (b) furnish the registrar with two copies and such number of additional copies as the registrar and each of the other parties with one copy thereof, in each case certified by the appellant as true copies.
- (9) The copies referred to in subrule (8) must be clearly typed on A4 standard paper in double spacing, and the pages thereof must be consecutively numbered, and in addition every tenth line on each page must be numbered.
- (10) The record must contain a correct and complete copy of the pleadings, evidence and all documents necessary for the hearing of the appeal, together with an index thereof, and the copies lodged with the registrar must be certified as correct by the legal practitioner or party lodging same or the person who prepared the record.
- (11) The appellant may within five days after the registrar has made the record available to him or her, by delivery of a notice, amend, add to or vary the terms of the notice of appeal.
- (12) Where any person to whom the notice of appeal is delivered desires to oppose the appeal, he or she must -
- (a) within five days after receipt by him or her of the notice of appeal or any amendment thereof, deliver notice to the appellant that he or she intends so to oppose the appeal on Form 11, and must in such notice appoint an address within of the office of the registrar at which he or she will accept notice and service of all process in the proceedings; and
  - (b) within 10 days after receipt by him or her of a copy of the record of the proceedings appealed against, or where no such record is called for in the notice of appeal, within seven days after delivery by him or her of the notice to oppose, deliver a statement stating the grounds on which he or she opposes the appeal together with any relevant documents.

(13) The appellant may, within five days after receiving the statement referred to in subrule (12), apply to the registrar on Form 9, on three days' notice to all other parties, to assign a date for the hearing of the appeal and the registrar must, after consultation with the chairperson, assign such a date and set the matter down for hearing on that date.

(14) In the absence of an application referred to in subrule (13) by the appellant, the respondent may, at any time after the expiry of the period of five days referred to in subrule (13), apply for a date of hearing in like manner.

(15) On receipt by the registrar of an application referred to in subrule (13) or (14) from appellant or respondent the appeal is deemed to have been duly prosecuted.

(16) On receipt of an application referred to in subrule (13) or (14), the registrar must, after consultation with the chairperson, as soon as is reasonably possible, assign a date of hearing, which date must be at least 10 days after the receipt of the said application, unless all parties consent in writing to an earlier date, except that the registrar may not assign a date of hearing until the provisions of subrules (8), (9) and (10) have been duly complied with.

(17) The registrar must forthwith give the appellant or respondent, as the case may be, written notice of the date of hearing, whereupon the appellant or respondent must forthwith deliver a notice of set down and in writing give notice thereof to the other parties to the appeal, except that no notice is required to be given to a person who did not oppose the appeal as contemplated in subrule (12).

(18) A notice of set down of an appeal, by that very fact, operates as a set down of any cross appeal, and *vice versa*.

(19) Not less than five days before the hearing date the appellant, if he or she is represented by a legal practitioner, must deliver to the other parties to the appeal copy of the heads of argument which he or she intends to argue at the hearing, as well as a list of authorities to be relied on in support of each point, and the other parties, if they are represented by a legal practitioner, must deliver to the appellant their heads of argument and list of authorities not less than two days before the hearing date.

(20) The original and two copies of all such heads of argument and list of authorities must be filed with the registrar not later than 12h00 on any day within the time limits referred to in subrule (19).

(21) An appeal to which this rule applies must be prosecuted within 30 days after the noting of such appeal, and unless so prosecuted it is deemed to have lapsed.

(22) The prosecution of an appeal does by that very fact operate as the prosecution of any cross-appeal which has been duly noted.

(23) If a cross-appeal has been noted, and the appeal lapses, the cross-appeal also lapses, unless application for a date of hearing for such cross-appeal is made to the registrar within 10 days after the date of the lapse of such appeal.

(24) Subrules (8) and (20) of rule 5 do, with necessary change or modifications required by the context, apply to an appeal to which this rule applies.

### **Leave to appeal**

**15.** (1) Where leave to appeal from a decision of the Commission, contemplated in rule 14(1)(b) is sought, application for such leave must be made, together with grounds for the

leave to appeal, within five days after the date of the decision appealed against, if the applicant does not request a record contemplated in subrule (3), or within seven days, if the applicant requests such record.

(2) If the reasons for the Commission's decision are given on a later date than the date of the decision, the application must be made within seven days after the latter date, and the court may, on good cause shown, extend the period of seven days.

(3) The applicant may request the Commission to deliver a typed transcription of the record of proceedings appealed against to the registrar, and the Commission must deliver such record to the registrar within five days of receiving the applicant's request, and the registrar must deliver a copy to the applicant for a fee payable in terms of the Rules of the High Court.

(4) The application referred to in subrule (1) must be served on every party and the registrar within five days after the expiration of the periods referred to in subrule (2).

(5) A party on whom the application is served and who opposes the application may, within five days after receiving the application by notice to every party and the registrar, set out clearly and specifically the grounds for opposing the application.

(6) After receiving the record referred to in subrule (3) and the notice referred to in subrule (5), if any, the registrar must, after consultation with the chairperson, allocate the file to the chairperson or a judge who must determine the application in chambers without hearing any oral arguments.

(7) The chairperson or the judge must deliver judgment within seven days after the file was allocated to him or her.

### **Interpretation of oral evidence into the official language**

**16.** (1) Where evidence in proceedings is given in a language other than the official language of Namibia, that evidence must be interpreted by a competent interpreter, sworn to interpret faithfully and to the best of his or her ability into the official language.

(2) Before a person is employed as an interpreter the court may, if in its opinion it is expedient to do so or if a party on reasonable grounds so desires, satisfy itself as to the competence and integrity of that person after hearing evidence, if the hearing of evidence is reasonable and practicable.

(3) Where the services of an interpreter are employed in any proceedings the expenditure involved, if any, is, unless the court orders otherwise, costs in the cause, except that where the interpretation of evidence given in the official language is required by a party or the legal practitioner of a party the cost involved is at such party's expense.

### **Record of proceedings**

**17.** (1) The record of proceedings is made up of -

- (a) a judgment or ruling given by the court;
- (b) evidence given in court or considered to have been given in court;
- (c) in the case of an application, affidavits and other supporting documents filed in the case;
- (d) objection made to any evidence received or tendered;

- (e) the proceedings of the court generally, including an inspection *in loco* and a matter demonstrated by a witness in court;
- (f) JCM processes; and
- (g) any other portion of the proceedings which the court may specifically order to be recorded.

(2) The record referred to in subrule (1) may be kept by such means as the court considers appropriate, and may in particular be taken down in shorthand or be recorded by mechanical means.

(3) The person taking the shorthand notes or making the mechanical record must certify the notes or record as correct and file them with the registrar.

(4) It is not necessary to transcribe the shorthand notes or mechanical record unless the chairperson or the court so directs or a party appealing so requires.

(5) If the shorthand notes or mechanical record are transcribed the person transcribing them must certify the transcript of such notes or record as correct and file the transcript, notes and record with the registrar and the transcript, notes or record certified as correct is considered to be correct unless the chairperson orders otherwise.

(6) A party to a cause or matter in which a record has been made in shorthand or by mechanical means may apply in writing through the registrar to the chairperson or court to have the record transcribed, if an order to that effect has not already been made, and that party is entitled to a copy of any transcript ordered to be made on payment of fees in terms of rule 21.

(7) Any stenographer employed to take down shorthand notes or any person employed to make a mechanical record of any proceedings is considered to be an officer of the court and he or she must, before commencing his or her duties, take the following oath or make the following affirmation:

*“I, AB, do swear/affirm that I will faithfully, and to the best of my ability, record in shorthand or cause to be recorded by mechanical means, as directed by the court, the proceedings in any case in which I may be employed as an officer of the court and that I will similarly, when required to do so, transcribe same or, as far as I am able, any shorthand notes or mechanical record made by any other stenographer or person employed to make such mechanical record.”.*

### **Disposal of documents**

**18.** (1) Where a matter has not been adjudicated by the court or the matter is withdrawn, the registrar may, subject to the provisions of the Archives Act, 1987 (Act No. 4 of 1987), after the lapse of three years from the date of the filing of the last document in his or her office relating to such matter, authorise the destruction of the documents filed.

(2) A matter which has been adjudicated by the court must be transferred to an archives depot as contemplated in section 5 of the Archives Act, 1987 (Act No. 4 of 1987), 30 years after disposal of such case.

### **Non-compliance with rules**

**19.** The court may, on application and on good cause shown -

- (a) condone any non-compliance with these rules;

- (b) extend or abridge any period prescribed by these rules, whether before or after the expiry of such period.

### **Execution of judgments and orders**

**20.** (1) In addition to the powers the court has under any law, any judgment or order of the court sounding in money may be enforced in accordance with the Rules of the High Court, as if such judgment or order is a judgment or order given in a civil action in the High Court.

(2) The costs of execution of a judgment or order in accordance with this rule are a first charge on the proceeds of any property sold in execution but in so far as such proceeds are insufficient, such costs must be borne by the party seeking to enforce the judgment or order, unless the court has, in accordance with the provisions of section 171 of the Act, made an order for costs in favour of that party.

### **Tariffs and taxation**

**21.** (1) The tariff of court fees, tariff of fees for a deputy sheriff and tariff of fees of instructing legal practitioner and instructed legal practitioner are those prescribed in the Rules of the High Court.

(2) Taxation of fees of legal practitioners and of disbursements of parties who represent themselves are the same as in a civil case in the High Court and they are as provided in the Rules of the High Court.

### **Costs**

**22.** Where the court decides to award costs in the circumstances contemplated in section 171 of the Act, the costs recoverable must be the same as those recoverable in respect of a civil case in the High Court, but in a case where a party represents himself or herself, such party's costs are limited to disbursements necessarily and reasonably incurred, and costs must be taxed by the taxing officer of the High Court, and in that case the rules governing taxation of costs in the Rules of the High Court apply with necessary modifications required by the context.

### **Forms**

**23.** Any reference in these rules to a numbered form is a reference to the corresponding form set out in the Annexure.

### **Application of Rules of High Court**

**24.** (1) Subject to the Act, where these rules do not make provision for the procedure to be followed in any matter before the court, the Rules of the High Court do apply to proceedings before the court with such qualifications, modifications and adaptations as the court may consider appropriate.

(2) The judicial case management rules in terms of the Rules of the High Court apply to proceedings before the court with such qualifications, modifications and adaptations as the managing judge may consider appropriate.

(3) The practice directions issued in terms of the Rules of the High Court apply to proceedings before the court with such qualifications, modifications and adaptations as the court may consider appropriate.

**ANNEXURE****FORMS****Index to Forms**

1. Return of service of process in the Electoral Court
2. Notice of motion
3. Notice of motion for review
4. Counter-application
5. Notice of intention to oppose application
6. Request to summon witnesses
7. Agreement of joint application
8. Notice of joinder
9. Order to serve witness statement
10. Notice of appeal
11. Notice of intention to oppose appeal

**FORM 1**

(Rule 4(6))

**RETURN OF SERVICE OF PROCESS IN THE ELECTORAL COURT**

In the matter between:

Applicant

and

Respondent

**AFFIDAVIT OF SERVICE**

I, .....,  
do hereby certify that on the ..... day of ..... 20 ..... at .....  
..... (state time) I duly served the following document(s)  
.....  
.....  
.....  
.....  
.....

(describe the document(s) served) in the following manner:

*(Complete (a), (b) or (c) as appropriate, \*delete as appropriate)*

(a) By handing a copy to .....  
(full name of the person served) the applicant / appellant / respondent / a person apparently  
not less than 16 years of age and employed at the applicant's / appellant's / respondent's  
place of business / registered office \* and he / she\* refused to sign a copy thereof;

(b) By sending a copy by registered post to .....  
.....

(full name of the person served) the applicant / appellant / respondent\*

at .....  
(state the postal address) and I annex hereto the certificate of posting;

(c) By sending a copy by telefacsimile to .....  
(full name of the person served) the applicant / appellant / respondent\*

at the following number .....  
(state telephone number) and I annex hereto the transmission confirmation slip;

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

.....  
**Signature of deponent**

**FORM 2**

(Rules 5(3) and (20))

**NOTICE OF MOTION**

In the matter between:

Applicant

and

Respondent

TAKE NOTICE that .....  
 (hereinafter called the applicant) intends to apply to this Court for an order

(a) .....

.....

(b) .....

.....

(c) .....

.....

(state the relief sought)

and that the accompanying affidavit of .....

.....

.....

will be used in support of the application.

AND FURTHER TAKE NOTICE that the applicant has appointed

.....

.....

(state the applicant's address for service) at which he or she will accept notice and service of all process in these proceedings.

AND FURTHER TAKE NOTICE that if you intend opposing this application you are required-

- (a) to inform the registrar at the High Court, Private Bag 13179, Lüderitz Street, Windhoek and the applicant or his or her legal practitioner, if any, on Form 5, within five days as the case may be, after service upon you of this notice, not counting the day of service, of your intention to oppose;



- (b) to appoint an address in your notice of intention to oppose at which you will accept notice and service of all process in these proceedings;
- (c) to -
- (i) deliver your answering affidavit, if any, to the registrar and the applicant within seven days after service of your notice of intention to oppose; or
  - (ii) notify the registrar and the applicant, in writing, within the said seven-day period that you intend to raise a point of law only, stating concisely the point of law in question.

If no such notice of intention to oppose is given you will not be entitled to take any part in the proceedings, except as provided in rule 6(8), and such judgment may be given or an order made against or in relation to you as the court may consider just and expedient.

DATED AT ..... this ..... day of ..... 20 .....

.....  
Applicant or his or her legal practitioner  
(address)

To: (1) .....  
(address) RESPONDENT

(2) The Registrar

**FORM 3**

(Rule 13(3))

**NOTICE OF MOTION FOR REVIEW****IN THE ELECTORAL COURT**

In the matter between:

Applicant

and

Respondent

TAKE NOTICE that ..... (hereinafter called the applicant ) intends to apply to this court for the proceedings or decision set out below to be reviewed and for an order-

(a) .....

(b) .....

(c) .....

*(state the relief sought)*

and that the accompanying affidavit of .....

.....

will be used in support of the application.

The proceedings or decision which the applicant seeks to have reviewed are as follows:

.....

.....  
(state the proceedings or decision in respect of which relief is sought and the person or body concerned.)

AND FURTHER TAKE NOTICE that you are hereby called upon -

- (a) to show cause why the above-mentioned proceedings or decision should not be reviewed and the relief sought granted;
- (b) to despatch to the registrar of the court at the High Court, Private Bag 13179, Lüderitz Street, Windhoek, within seven days after service upon you of this notice, the record of the proceedings referred to above together with such reasons as you are by law required to give or which you desire to give and to notify the applicant in writing that this has been done.  
(Delete paragraph (b) if not appropriate).

AND FURTHER TAKE NOTICE that the applicant has appointed

.....  
(state the applicant's address for service) at which he or she will accept notice and service of all process in these proceedings.

AND FURTHER TAKE NOTICE that if you intend opposing this application you are required-

- (a) to inform the registrar of the court at the High Court, Private Bag 13179, Lüderitz Street, Windhoek and the applicant or his or her legal practitioner, if any, on Form 3, within five days after service upon you of this notice or any notice amending it, not counting the day of service, of your intention to oppose;
- (b) to appoint an address in your notice of intention to oppose at which you will accept notice and service of all documents in these proceedings;
- (c) within -
  - (i)\* five days of service upon you of a copy of the record of the proceedings sought to be reviewed, deliver your answering affidavits, if any, together with any relevant documents to the registrar and the applicant; or
  - (ii)\* seven days of the service upon you of this notice deliver your answering affidavits, if any, together with any relevant documents to the registrar and the applicant.

*\*(Delete whichever of these paragraphs is not appropriate)*

If no such intention to oppose is given you will not be entitled to take part in the proceedings, except as provided in rule 6(8), and judgment may be given or order made against or in relation to you as the court may consider just and expedient.

DATED AT ..... this ..... day of ..... 20 .....

.....  
Applicant or his or her legal practitioner  
(address)

To: (1) .....  
(address) RESPONDENT

(2) The Registrar

Note: The days between 16<sup>th</sup> December and 15<sup>th</sup> January, both inclusive, are not counted in the time allowed for the delivery of any notice or proceeding.

**FORM 4**

(Rule 5(17))

**COUNTER-APPLICATION****IN THE ELECTORAL COURT**

In the matter between:

Applicant

and

Respondent

TAKE NOTICE that the respondent (if more than one respondent is cited, state whether first, second, etc. respondent, as the case may be, intends to apply to this Court for an order -

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

(state the relief sought)

and that the accompanying affidavit of .....

.....  
 .....

will be used in support of this counter-application.

AND FURTHER TAKE NOTICE that if you intend opposing this counter-application you are required -

- (a) to inform the registrar at the High Court, Private Bag 13179, Lüderitz Street, Windhoek, and the respondent or his or her legal practitioner, if any, on Form 4, within five days after service upon you of this notice, not counting the day of service, of your intention to oppose;
- (b) (i) to deliver your replying affidavit, if any, to the registrar and the applicant within seven days after service of your notice of intention to oppose; or
- (ii) to notify the registrar and the applicant, in writing, within the said seven-day period that you intend to raise a point of law only stating concisely the point of law in question.

If no such notice of intention to oppose is given you will not be entitled to take any part in the proceedings in so far as they relate to this counter-application, except as provided in rule 6(8), and such judgment may be given or order made against or in relation to you as the court may consider just and expedient.

.....  
**Respondent or his or her legal practitioner**

To: (1) The applicant  
(2) The Registrar

**FORM 5**

(Rules 5(5)(b) and 13(10)(a))

**NOTICE OF INTENTION TO OPPOSE APPLICATION****IN THE ELECTORAL COURT**

In the matter between:

Applicant

and

Respondent

TAKE NOTICE that .....  
 (hereinafter called the respondent) (if more than one respondent is cited state whether first, second, etc. respondent, as the case may be, intends to oppose this application.

AND FURTHER TAKE NOTICE that the respondent has appointed

.....  
 (state the respondent's address for service) at which he or she will accept notice and service of all process in these proceedings.

DATED AT ..... this ..... day of ..... 20 .....

.....  
 Respondent or his or her legal practitioner  
 (address)

To: (1) .....  
 (address) APPLICANT

(2) The Registrar

**FORM 6**

(Rule 10(2))

**REQUEST TO SUMMON WITNESSES****IN THE ELECTORAL COURT**

In the matter between:

Applicant

and

Respondent

---

LIST OF WITNESSES TO BE SUMMONED in terms of RULE 10(2)

---

Note: Correct residential and postal addresses, telephone numbers and facsimile numbers, if any, of witnesses must be furnished.

On Behalf of the Applicant

On Behalf of the Respondent

1

2

3

4

5

6

.....  
Signature of Applicant or his/her  
representative

Date: .....

.....  
Signature of Respondent or his/her  
representative

Date: .....

**FORM 7**

(Rule 6(2))

**AGREEMENT OF JOINT APPLICATION****IN THE ELECTORAL COURT**

In the matter between:

Applicant

and

Respondent

**AGREEMENT**

We, the undersigned applicants, in our capacity as parties to these proceedings before the court, do hereby agree that .....

.....  
 (state name of the representative) is hereby authorized to represent us in the above-named application and have the following powers:

- (a) to file affidavits, statements or any other documents;
- (b) to amend the application or to abandon it;
- (c) to call witnesses and give evidence and make submissions to the Court on any matter arising during the hearing of the application;
- (d) to take any other necessary steps incidental to the prosecution of the application.

DATED AT ..... this ..... day of ..... 20 .....

Initials, Surname, Identity Document number, Voter Card number of each applicant

.....  
 .....  
 .....  
 .....

.....  
 (name of authorized representative) do hereby accept the conditions of this agreement subject to the provisions of rule 9.



**FORM 8**

(Rule 8(1))

**NOTICE OF JOINDER****IN THE ELECTORAL COURT**

In the matter between:

Applicant

and

Respondent

TAKE NOTICE that you are called upon to show cause on the ..... day of .  
.....20 ..... at ..... (time) why:

(1)\* .....  
(state name(s) and address(es) of person(s) to be joined) should not be joined as an applicant/  
respondent in these proceedings.

(2)\* .....  
(state name of respondent to be dismissed) should not be dismissed from these proceedings.

\*(Complete as appropriate)

DATED AT ..... this ..... day of ..... 20 .....

.....  
Registrar

To: (1) .....  
(address) Applicant

(2) .....  
(address) Respondent

**FORM 9**

(Rule 9(5)(a))

**ORDER TO SERVE WITNESS STATEMENT**

IN THE ELECTORAL COURT

Case Number: ...../.....

In the matter between:

Applicant

and

Respondent

TAKE NOTICE that .....  
 (applicant/respondent) is hereby ordered to serve on

.....

.....  
 (applicant/respondent) the witness statement(s) of:

1 ..... (witness (ses))

2 .....

3 ..... (witness (ses))

On or before ..... (date) of the oral evidence of the abovementioned witness  
 (es) which .....

.....  
 (applicant/respondent) intends to rely on in relation to any issue of fact to be decided at the hearing.

TAKE FURTHER NOTICE that the following directions are made by the Chairperson to which the  
 parties must adhere.

TAKE FURTHER NOTICE that failure to serve the abovementioned witness statement or statements  
 may result in the court disallowing such evidence at the hearing.

DATED AT ..... this ..... day of ..... 20 .....

**BY ORDER OF THE CHAIRPERSON**

.....  
Registrar of the High Court

To:  
..... / party

Legal practitioner for .....  
(Address)

And To:  
..... / party

Legal practitioner for .....  
(Address)

**FORM 10**

(Rule 14(2))

**NOTICE OF APPEAL****IN THE ELECTORAL COURT**

In the matter between:

Appellant

and

Respondent

**PART A***(To be completed by persons noting an appeal in terms of rule 13(1)(a) or (b))*

TAKE NOTICE that .....

(hereinafter called the appellant) intends to appeal to the court pursuant to section .....  
 of the Electoral Act, 2014 (Act No. 5 of 2014) (state the section of the Act in terms of which the  
 appeal is noted) against the whole of a part of (delete as appropriate) the decision or order of the  
 respondent made on or about the ..... day of ..... 20 .....  
 whereby it was decided that

.....  
 .....  
 .....

(State the decision or part thereof appealed against)

And the appellant will ask this court FOR AN ORDER

.....  
 .....

(State the precise form of the order sought)

AND FURTHER TAKE NOTICE that the grounds of this appeal are-

.....  
 .....  
 .....  
 .....

(set out concisely and distinctly the grounds of the appeal) and the fact relied upon by the appellant are set out in

the accompanying affidavit of .....

.....

.....

## **PART B**

*(To be completed by persons noting an appeal in terms of rule 14(1)(a) or (b))*

AND FURTHER TAKE NOTICE that you are hereby called upon to despatch to the registrar at the High Court, Private Bag 13179, Lüderitz Street, Windhoek, within 10 days after service upon you of this notice, the record of the proceedings relating to the above matter together with such reasons as you are by law required to give or which you desire to give and to notify the appellant in writing that this has been done.

AND FURTHER TAKE NOTICE that the appellant has appointed

.....

.....

(state the appellant's address for service) at which he or she will accept notice and service of all process in these proceedings.

AND FURTHER TAKE NOTICE that if you intend opposing this appeal you must -

(a)

(b)

(c)

AND FURTHER TAKE NOTICE that after the expiration of the period of five days allowed for the delivery of a notice to oppose the appellant proposes to apply to the registrar, on three days' notice, to assign a date for the hearing of this appeal.

DATED AT ..... this ..... day of ..... 20 .....

.....  
Appellant or his or her legal practitioner (address)

To: (1) .....  
(address) RESPONDENT

(2) The Registrar

**FORM 11**

(Rule 14(7)(b) and (12)(a))

**NOTICE OF INTENTION TO OPPOSE APPEAL****IN THE ELECTORAL COURT**

In the matter between:

Applicant

and

Respondent

TAKE NOTICE that .....

.....  
 (hereinafter called the respondent) (if more than one respondent is cited state whether first, second, etc. respondent, as the case may be, intends to oppose this appeal.

AND FURTHER TAKE NOTICE that the respondent has appointed

.....  
 (state the respondent's address for service) at which he or she will accept notice and service of all process in these proceedings.

DATED AT ..... this ..... day of ..... 20 .....

.....  
 Respondent or his or her legal practitioner (address)

To: (1) .....  
 (address) APPLICANT

(2) The Registrar

\_\_\_\_\_