

Statutory Instrument 122 of 1980.

Administrative Court (Miscellaneous Appeals) Rules 1980

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IT is hereby notified that the Chief Justice and the Secretary for Justice have, in terms of section 11 of the Administrative Court Act, 1979, approved the following rules made by the Presidents of the Administrative Court: —

1. Title

These rules may be cited as the Administrative Court (Miscellaneous Appeals) Rules, 1980.

2. Application

(1) Subject to the provisions of subrule (2), these rules shall apply to any appeal to the court or a president which is provided for in any enactment having the force of law in Zimbabwe.

(2) These rules shall not apply to an appeal in relation to which the enactment concerned or rules published under such enactment expressly prescribe the whole procedure to be followed.

(3) In relation to any appeal to which these rules apply, the provisions of these rules shall be read subject to those provisions of the enactment concerned which prescribe aspects of the procedure for the appeal, as the case may be, but shall be applied to the fullest extent consistent therewith.

3. Interpretation of terms

In these rules—

“court” means the Administrative Court;

“president” means a president of the court;

“notice” means a notice instituting an appeal;

“registrar” means the Registrar of the Administrative Court and any deputy or assistant registrar designated and acting as a registrar of the court;

“tribunal” means any court, tribunal, council, board, authority or other body against whose decision an appeal lies to a president of the court.

4. Notice of appeal

(1) An appeal shall be instituted by means of a notice directed and delivered by the appellant to the presiding officer of the tribunal whose decision is appealed against and to all other parties affected thereon.

(2) A notice shall also be filed with the registrar.

5. Time within which notice to be given

Subject to the provisions of rule 6, a notice shall be delivered and filed in accordance with the provisions of rule 4 within thirty days of the decision being appealed against being given.

6. Condonation of late noting of appeal

(1) Save where it is expressly or by necessary implication prohibited by the enactment concerned, a president may, if special circumstances are shown, extend the time prescribed whether by rule 5 or by the enactment concerned, for instituting an appeal.

(2) Any application for an extension in terms of subrule (1) of this rule shall be accompanied by an affidavit verifying the facts on which the application is based.

(3) A copy of such application and its accompanying affidavit shall be served on all parties affected at the same time as service upon them of the notice referred to in rule 4.

(4) The parties affected may, within 14 days of the service on them of such application, file a reply supported by an affidavit verifying the facts on which such reply is based.

7. Contents of notice of appeal

A notice shall state—

- (a) the tribunal whose decision is appealed against; and
- (b) the date on which the decision was given; and
- (c) the grounds of appeal; and
- (d) the exact nature of the relief sought; and
- (e) the address of the appellant or his legal representative.

8. Record

(1) As soon as possible and, in any event, not later than thirty days after the receipt of a notice, the tribunal concerned shall—

- (a) if a formal record of the proceedings was kept, lodge it with the registrar;
- (b) if no formal record of the proceedings was kept, lodge with the registrar reasons for the decision concerned, together with all the papers relating to the matter in issue.

(2) Where a formal record is lodged, the provisions of rule 50 of the Rules of the Appellate Division of the High Court shall, *mutatis mutandis*, apply.

(3) Where no formal record is lodged, the registrar may require such additional copies of the papers as he deems necessary to be submitted.

9. Hearing

(1) After receipt of the record or the reasons and papers referred to in terms of paragraph (b) of subrule (1) of rule 8, the registrar shall set down the appeal for hearing on a day and at a time and a place selected by him in accordance with any instructions given to him by the president, and he shall forthwith give notice thereof to the appellant and all other parties affected:

Provided that the parties to the appeal shall receive not less than seven days' notice of the set-down.

(2) Where any application is to be considered, the court may proceed to the determination of the appeal immediately after the determination of the application.

10. Heads of argument

(1) An appellant or a respondent who will be legally represented at the hearing of appeal or application shall prepare a document setting out the main heads of his argument together with a list of authorities to be cited in support of each head.

(2) The appellant shall, not later than four days before the date of hearing, deliver four copies of his heads of argument to the registrar and one copy to the respondent, and the respondent shall, in similar manner, as soon as possible thereafter, and in any event not later than twenty-four hours before the hearing, prepare and deliver his heads of argument.

11. Departure from rules

In any case not contemplated by these rules, the court, or a president if the court is not sitting, shall act in such manner and on such principles as it or he deems best fitted to do substantial justice and to carry out the objects and provisions of the enactment concerned, and may for this purpose give instructions on the course to be pursued, which shall be binding on the parties to the proceedings.

12. Adjournment or postponement

If, for any reason, it appears desirable that the hearing of any matter should be adjourned or postponed, the court may make such order as to an adjournment or postponement thereof as it deems fit.