

GOVERNMENT NOTICE NO. 11 published on 20/1/2023

THE JUDICATURE AND APPLICATION OF LAWS ACT,
(CAP. 358)

RULES

(Made under section 4)

THE JUDICATURE AND APPLICATION OF LAWS (TRANSFER AND
MANAGEMENT OF CASES ASSIGNED TO MAGISTRATES WITH EXTENDED
JURISDICTION)
RULES, 2022

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THE JUDICATURE AND APPLICATION OF LAWS ACT,
(CAP. 358)

RULES

(Made under section 4)

THE JUDICATURE AND APPLICATION OF LAWS (TRANSFER AND
MANAGEMENT OF CASES ASSIGNED TO MAGISTRATES WITH EXTENDED
JURISDICTION)
RULES, 2023

PART I
PRELIMINARY PROVISIONS

- | | |
|----------------|---|
| Citation | 1. These Rules may be cited as the Judicature and Application of Laws (Transfer and Management of Cases Assigned to Magistrates with Extended Jurisdiction) Rules, 2023. |
| Application | 2. These Rules shall apply to regulate the transfer of cases by the High Court to a magistrate and management of such cases. |
| Interpretation | 3. In these Rules, unless the context otherwise requires- |
| Cap. 237 | “Judge in-charge” has the meaning ascribed to it by the Judiciary Administration Act, and includes an Acting Judge in-charge;
“magistrate” means a resident magistrate with extended jurisdiction; and
“Registrar” means the Registrar of the High Court, Deputy Registrar and Acting Deputy Registrar. |

PART II
MANAGEMENT OF CASES

- | | |
|----------------|--|
| Transfer order | 4.-(1) The transfer of any matter from the High Court to a magistrate shall be by way of a transfer order made, signed and dated by a Judge in-charge.
(2) The transfer order under sub-rule (1) shall be made- |
|----------------|--|

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- (a) in a criminal case triable by the High Court in its original jurisdiction, after the accused is committed for trial, but before a plea is taken; and
 - (b) in any other case, when the record is complete, but before the High Court commences hearing of the matter to be transferred.
- (3) The transfer order under this rule shall specify-
- (a) particulars of the case to be transferred;
 - (b) the name of the magistrate to whom the matter is transferred; and
 - (c) the name of the court of a resident magistrate where the matter transferred will be heard.
- (4) The transfer order under this rule shall be substantially in Form A set out in the First Schedule to these Rules.

Register and
custody

- 5.-(1) There shall be such number of registers in which the particulars of matters transferred to the magistrate shall be entered.
- (2) The registrar shall be the custodian of the registers under this rule.
- (3) There shall be a seal of the court presided over by a magistrate as set out in the Second Schedule to these Rules which shall be under the custody of the registrar.

Functions of
Registrar

- 6.-(1) The Registrar shall perform all functions in relation to matters transferred to the magistrate as if such matters were before the High Court.
- (2) Without prejudice to the generality of subrule (1), the Registrar shall perform the following functions-
- (a) preparation of cause list where necessary;
 - (b) taxation of bill of costs;
 - (c) execution of decrees and orders;
 - (d) preparation of returns;
 - (e) updating case status in the case management system and registers;
 - (f) endorsement of documents; and
 - (g) to be the ultimate custodian of court records.

Registration after
transfer order

- 7.-(1) After a transfer order has been issued, the registrar shall enter particulars of the matter transferred in the register under these Rules and cause the record to be transmitted to the magistrate.
- (2) Without prejudice to the generality of this rule, particulars to be entered in the register shall include-
- (a) a number of the case assigned to the transferred matter;
 - (b) particulars of the parties;
 - (c) the High Court case number;

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- (d) the original or committal case number;
- (e) the name of magistrate assigned;
- (f) the date of the transfer order; and
- (g) the verdict and date thereof.

Plea taking and
trials

8.-(1) Subject to the provisions of these Rules, the magistrate to whom a case has been assigned, shall take a plea immediately after the transfer.

(2) Upon taking a plea under sub rule (1), the magistrate shall conduct a trial to its finality on a date to be fixed by the Registrar or any date thereafter.

Appeals and other
matters

9.-(1) Subject to the provisions of these Rules, the magistrate to whom an appeal or any other matter has been assigned, shall conduct a hearing immediately after the transfer.

(2) Upon receipt of the transfer order and the record of appeal or any other matter referred to under subrule (1), the magistrate shall fix a hearing date and on the date so fixed, conduct the hearing continuously to its finality or, for reasons to be recorded, adjourn it to another date.

Inability to
conclude trial

10.-(1) Where the magistrate is unable to proceed with the trial or hearing of the appeal or any other matter due to death, illness or any other good cause, the Judge in-charge shall by an order signed by him, re-assign the matter to another magistrate for continuation of its hearing.

(2) The magistrate taking over the proceedings under this rule, shall record reasons for taking over and inform the parties accordingly.

(3) The re-assignment order under this rule shall be substantially in Form B set out in the First Schedule to these Rules.

Re-calling of
transferred case

11. The Judge in-charge may, for exceptional reasons to be recorded, re-call the case transferred to the magistrate-

- (a) in case of the criminal trial, before plea taking; and
- (b) in any other matter, before commencement of hearing, and in such case, the matter shall proceed before the High Court.

Place of sitting

12.-(1) The magistrate shall sit at the place where the court named in the transfer order ordinarily sits.

(2) Notwithstanding the provisions of subrule (1), the magistrate may sit at any other place within the jurisdiction of the court mentioned in the transfer order upon prior consent of the Judge in-charge and the parties shall be notified of such place of sitting.

PART III
APPLICATIONS

Place of filing of
applications

13.-(1) Application arising from matters transferred to a magistrate, whether filed when the matter transferred is pending or after its determination, shall be filed before the High Court.

(2) Upon admission of the application filed under subrule (1), the Judge in-charge shall issue a transfer order of an application which shall be **substantially in Form C set out in the First Schedule** to these Rules.

(3) Notwithstanding the provisions of these Rules and subject to the provisions of any other law, an application for taxation of bill of costs and execution of matters arising in exercise of the extended jurisdiction shall be heard by the Registrar.

(4) Nothing in this rule shall prevent the magistrate to determine and enforce payment of costs ordered to be paid during the pendency of the proceedings.

Hearing of
applications

14. Subject to the provisions of these Rules or any other law, an application arising from any matter determined by a magistrate shall be heard by a magistrate who presided over the matter or any other magistrate to be assigned.

PART IV
MISCELLANEOUS PROVISIONS

Place of lodging
notice of appeal
Cap. 141

15. Subject to the provisions of the Appellate Jurisdiction Act or any other law, a notice of appeal against the decision of the subordinate court exercising extended powers shall be lodged in the High Court.

Issuance of
record of appeal,
copy of
proceedings and
certificate of
delay
Cap 141

16. Subject to the provisions of the Appellate Jurisdiction Act or any other law, the Registrar shall prepare, issue and transmit record of appeal, copy of proceedings and certificate of delay in relation to matters arising from the decision of the magistrate.

Expenses

17. Subject to the provisions of any law, expenses for conducting proceedings of matters before the magistrate shall be borne by the High Court.

*Judicature and Application of Laws (Transfer and Management of Cases
Assigned to Magistrates with Extended Jurisdiction)*

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FIRST SCHEDULE

(Made under rule 4(4), 10(3) and 13(2))

FORM A

(Made under rule 4(4))

UNITED REPUBLIC OF TANZANIA
JUDICIARY

IN THE HIGH COURT OF TANZANIA
AT.....

TRANSFER ORDER

Criminal Sessions Case/Criminal Appeal/Civil Appeal/Land Appeal/Revision Application/ (or any other matter) No.....of 20.... *(insert the High Court case type and number to be transferred to the resident magistrate with extended jurisdiction)*

Original Committal Case /Criminal Case/Civil Case (or any other original matter) No.....of 20.... *(insert the subordinate court case type and number from which the High Court Case to be transferred originates)* of the District Court/Court of the Resident Magistrate of.....At..... *(Insert the subordinate court name from which the High Court Case to be transferred originates)*

..... REPUBLIC/APPELLANT/APPLICANT

VERSUS

.....ACCUSED/RESPONDENT

(Insert particulars of the parties to the High Court case to be transferred)

TRANSFER ORDER

(Under section.... of.....)

(Insert the section of the Act of the Parliament permitting the transfer of a case to a resident magistrate with extended jurisdiction)

It is ordered that Criminal Sessions Case/Criminal Appeal/Civil Appeal/Land Appeal/Revision Application/ (or any other matter) No..... of 20.... between.....and..... originating from the decision of..... *(insert the name of the magistrate whose decision is challenged)* in *(insert particulars of original case)* of..... *(insert particulars of original court)* is transferred to be heard and determined by....., a resident magistrate with extended jurisdiction.

It is further ordered that the hearing of the said matter shall be conducted at the Court of Resident Magistrate of.....

.....
Judge in-charge
.... day of.....20....

FORM B

(Made under rule 10(3))

UNITED REPUBLIC OF TANZANIA
JUDICIARY

IN THE HIGH COURT OF TANZANIA
AT.....

RE-ASSIGNMENT ORDER

Extended Criminal Sessions Case/Criminal Appeal/Civil Appeal/Land Appeal/Revision
Application/ (or any other matter) No.....of 20.... *(insert the extended case number)*

Original Committal Case /Criminal Case/Civil Case (or any other original
matter)..... No.....of 20.... *(insert the subordinate court case type and
number from which the High Court Case to be re-assigned originates)*
of the District Court/Court of the Resident Magistrate of.....at..... *(insert the
subordinate court name from which the High Court Case to be re-assigned originates)*

..... REPUBLIC/APPELLANT/APPLICANT

VERSUS

.....ACCUSED/RESPONDENT

(insert particulars of the parties to be reassigned)

RE-ASSIGNMENT ORDER

(Under section..... of.....)

*(insert the section of the Act of the Parliament permitting the reassignment of a case to
a resident magistrate)*

It is ordered that Extended Criminal Sessions Case/Criminal Appeal/Civil Appeal/Land
Appeal/Revision Application/ (or any other matter) No..... of 20....
between.....and..... initially before.....*(insert the name of
the previous magistrate who could not conclude the hearing)* is re-assigned to be heard
by....., a resident magistrate with extended jurisdiction.

It is further ordered that the hearing of the said matter shall be conducted at the Court of
Resident Magistrate of.....

.....
Judge in-charge
.... day of.....20....

*Judicature and Application of Laws (Transfer and Management of Cases
Assigned to Magistrates with Extended Jurisdiction)*

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FORM C

(Made under rule 13(2))

UNITED REPUBLIC OF TANZANIA
JUDICIARY

IN THE HIGH COURT OF TANZANIA

AT.....

TRANSFER ORDER FOR AN APPLICATION

Criminal/Civil Application No.....of 20.... *(insert the High Court application number
to be transferred to the resident magistrate with extended jurisdiction)*

Arising from Criminal Sessions Case/Criminal Appeal/Civil Appeal/Land Appeal (or
any other transferable matter) No.....of 20.... *(insert the original High Court case
number or original number of the case transferred to the magistrate with extended
jurisdiction)*

of the High Court/court of resident magistrate ofAt.....

..... APPLICANT

VERSUS

.....RESPONDENT

(Insert particulars of the parties to the application to be transferred)

TRANSFER ORDER

*(Under rule 13(2)) of the Judicature and Application of Laws (Transfer and
Management of Cases Assigned to Magistrates with Extended Jurisdiction) Rules,
2022).*

It is ordered that Criminal/Civil Application No..... of 20.....
between.....and..... originating from Criminal Sessions
Case/Criminal Appeal/Civil Appeal/Land Appeal (or any other transferable matter)
No.....of 20.... *(insert the original High Court case number or original number of the
case transferred to the magistrate with extended jurisdiction)*
of the High Court/court of resident magistrate ofat.....is transferred
to be heard and determined by....., a resident magistrate with extended
jurisdiction.

It is further ordered that the hearing and determination of the said application shall be
conducted at the Court of Resident Magistrate of.....

.....
Judge in-charge
.... day of.....20.....

SECOND SCHEDULE

(Made under rule 5(3))

COURT SEAL



Dar es salaam,
9th January, 2022

IBRAHIM HAMIS JUMA
Chief Justice