



**REPUBLIC OF KENYA**

# **THE JUDICIARY**

## **HIGH COURT REGISTRY OPERATION MANUAL**

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## FOREWORD

The Kenya Judiciary has over the years faced intense criticism owing to the inefficiencies of our systems and processes. From missing files, opaque processes, non-responsive judicial staff to poor management of case loads and inadequate preparation for hearings, the complaints against judicial processes are legendary and well known. Most of these problems can be traced to inefficiencies in registries which are the first point of contact between our customers and the courts.

For true transformation to take place the systems and processes in our courts have to be overhauled. It is for this reason that the Judiciary Transformation Framework emphasizes transformation of court procedures, processes, organizational culture, and management to re-orient them towards a culture of responsive, friendly, and effective service delivery accompanied by an integrated performance management system.

This registry operation manual provides the first ever documented tool to guide the processes and procedures in our court registries, and affords an opportunity to offer standardized and harmonized customer experience across the board. The manual is anchored in the Civil Procedure Act and Rules, the Criminal Procedure Code, the Law of Succession, the Children's Act, Industrial Court Act and other enabling legislation.

The manual will help registries realign their operations to the aspirations of the Judiciary Transformation Framework and to the expectations of our customers. It has been developed through a consultative process that included judicial officers, judicial staff and external stakeholders.

It will no doubt serve as a useful guide to all judicial officers, court administrators, policy makers, staff and stakeholders involved in the administration of justice.

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**JUDITH OMANGE**

REGISTRAR, HIGH COURT OF KENYA

**ABBREVIATIONS & ACRONYMS**

AG	- Attorney General
BU	- Bring Up
CBA	- Collective Bargaining Agreement
CPMU	- Central Planning and Monetary Unit
CPR	- Civil Procedure Rules
DR	- Deputy Registrar
EFT	- Electronic Funds Transfer
FGF	- Feel Good Factor
GIZ	- Deutsche Gesellschaft für Internationale Zusammenarbeit
GP	- Government Printer
H.CR REV	- High Court Criminal Revision
HCCA	- High Court Civil Appeal
HCCC	- High Court Civil Case
HCCRA	- High Court Criminal Appeal
HCCRC	- High Court Criminal Case
IEBC	- Independent Electoral and Boundaries Commission
ISO	- International Standards Organization
JTF	- Judiciary Transformation Framework
JR	- Judicial Review
MISC	- Miscellaneous
NEMA	- National Environment Management Authority
NTSC	- Notice to Show Cause
OB	- Occurrence Book
ODPP	- Office of the Director of Public Prosecutions
OS	- Originating Summons
P & A	- Probate and Administration
RHC	- Registrar High Court

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## 1.0 INTRODUCTION

The High Court of Kenya improved registry programme is informed by the Constitution of Kenya and the Judiciary Transformation Framework 2012-2016 both of which emphasize transformation of court processes. A transformed High Court of Kenya will improve the speed of justice and enhance access to justice especially for the marginalized and traditionally under-served communities.

The integrity of the Judiciary is measured by the extent to which structures, systems and processes facilitate fair, transparent and efficient administration of justice. It is for this reason that the Judiciary Transformation Framework declares that one of the goals of Judiciary Transformation is:

“Transforming court procedures, processes, organizational culture, and management to re-orient them towards a culture of responsive, friendly, and effective service delivery accompanied by an integrated performance management system to ensure accountability, improvement and transparency.”

In line with this, the Registry Manual seeks to streamline registry processes in the registries at the High Court to enhance access to and expeditious delivery of justice.

The Manual will be a useful guide to the Registry staff in classification of files, accessibility as well as protection of files with the overall objective of achieving the highest degree of accountability and meeting the expectations of the customers.

The Manual was developed through a participatory process which began in June 2013, involving judicial officers, staff as well as stakeholders, which included personal interviews, sharing of best practices from all High Court stations. Relevant aspects of the Constitution of Kenya 2010 and other statutes are incorporated in the manual.

The Manual which is divided into five chapters is categorized into three broad themes, that is, general guiding principles, common processes, and processes attendant to specific cases handled in the registries.

### 1.1 OBJECTIVES

- To provide simplified and standardized operating procedures in all courts
- To ensure uniform customer experience in all registries
- To achieve greater efficiency in registry operations
- To clearly define roles of staff in the registries and ensure accountability
- To orient new employees to the processes and procedures in the registries

It is hoped that with the adoption of documented registry processes, our courts will be well positioned to receive International Standards Organization (ISO) Certification to underscore our commitment to the highest quality standards.

The Manual shall be reviewed biennially to reflect policy changes, policy directions and amendments in the law.



## 2.0 THE COURT SYSTEM

The court system is established under Article(s) 162 and 169 of the Constitution of Kenya, 2010. The system comprises;

- The Supreme Court
- The Court of Appeal
- The High Court
- The Industrial Court
- The Environment and Land Court
- The Subordinate Courts comprising of;
  1. Magistrates Courts
  2. Kadhis' Courts
  3. Courts Martial
  4. Any other Court or local tribunal established by an Act of Parliament

## 2.1 JUDICIAL OFFICES AND OFFICERS

Judicial offices and officers are established under Article 161 of the Constitution of Kenya 2010. They are made up of the following;

- Judges of the Superior Courts (Supreme Court, Court of Appeal, High Court, Environment and Land Court, Industrial Court)
- Magistrates
- Other judicial officers and staff

### Judicial Offices

- The Office of the Chief Justice who is the Head of the Judiciary
- The Office of the Deputy Chief Justice who is the Deputy Head of the Judiciary
- The Chief Registrar of the Judiciary who is the Chief Administrator and Accounting Officer of the Judiciary
- The other offices as established by the Judicial Service Commission. They include:
  - Office of the Registrar of the Judicial Service Commission
  - Office of the Registrar of the Supreme Court of Kenya
  - Office of the Registrar of the Court of Appeal
  - Office of the Registrar of the High Court of Kenya
  - Office of the Registrar of the Magistrates Courts
  - Deputy Registrars of the Supreme Court, Court of Appeal, High Court, Industrial Court, the Environment and Land Court and the Magistrates Courts
  - Legal researchers

The Judicial Service Commission is the body that appoints, receives and investigates complaints, removes from office and disciplines Registrars, Magistrates, other Judicial Officers and staff of the Judiciary among other functions.

## 2.2 REGISTRY OFFICIALS

### a) Deputy Registrar

The Deputy Registrar is the head of all the administrative services in the registry and is responsible for registry services, library services, case management, and execution of Court decisions. The Deputy Registrar oversees allocation and performance of duties by all staff.

### b) Court Administrators/Registry Supervisors

The Court Administrators also known as Registry Supervisors offer support services for the administration and supervision of the registry processes and procedures; They ensure smooth flow of work in the registries.

### c) Accountants

Accountants are responsible for the issuance of payment receipts, receipt of cash deposits, refund of cash bails and deposits and bank reconciliation.

### d) Court Registry Assistants

Court Registry Assistants are responsible for the registration of cases, filing of documents, assessment of court fees, retrieval of files, preparation of statistical returns, preparation of cause lists, entry of court results in case registers, and customer service.

### e) Court Assistants

Court Assistants offer critical support to judicial officers in court. Their responsibilities include; maintaining, organizing and auditing all of the court documents, preparing documents and files for each court case and keeping minutes of the court proceedings. Additional responsibilities will be keeping a docket of the current and upcoming court cases, tracking down documents that are missing and handling a variety of clerical tasks needed by the judge during the trial. Court Assistants are bound by the Court Assistants Interpreters' Oath in performance of their duties in court.

### f) Records Management Officers/Archivists

Record Managers/archivists are responsible for the effective and appropriate management of court records from their creation to disposition while ensuring that legal obligations are complied with in the process.

### g) Court Bailiffs and Court Process Servers

Court bailiffs and process servers serve all court processes, file affidavits of service, serve warrants in execution of decrees and orders; execute eviction orders, warrants of arrest for civil debts and maintain a register of served processes.

### h) Administrative Assistants

Administrative Assistants are responsible for typing all documents related to the work of the Judges. They also manage the offices in which they work.

### i) Office Assistants

Office assistants carry out general duties in the registries and offices as assigned by the supervisors. In the implementation of the Manual, and in execution of their duties, all officials are bound by Chapter six of the Constitution of Kenya 2010 on Leadership & Integrity, and part III of the Public Officer Ethics Act 2003.

Any breach of the outlined processes in this Manual shall be subject to the disciplinary proceedings within the provisions of the Judicial Code of Conduct and Ethics, and the Judicial Service Staff Regulations.

## **2.3 REGISTRY PROCEDURES - GENERAL PRINCIPLES**

The guiding principle in the registry procedures and processes is due regard and utmost care to customers. The processes are informed by the following values:

- Respect
- Courtesy
- Integrity
- Accountability
- Sensitivity to persons with special needs and vulnerable groups

The official working hours are 8.00am to 5.00pm. However, to increase efficiency and allow time to process back-office operations the registries will open at 8.00 am through lunch time to 4.00 pm when service counters shall be closed. Staff will render services in shifts during lunch break. Court registries are open for service to our customers from Monday to Friday except on public holidays or as otherwise directed.

### **2.3.1 Front Office Operations**

Front Office services are aimed at enhancing the quality and level of satisfaction to customers.

- The services that are rendered shall be such that the customers' expectations are met.
- The Front Office personnel shall adjust themselves to the personality of the customers giving priority to persons with disabilities and other disadvantaged groups.
- Front Office functions shall be carried out in a manner that portrays a positive image of the Judiciary.

### **2.3.2 Service Counter Management**

- Services at the counter shall be rendered on a first-come-first- served basis by use of service tokens issued by a designated officer who will be responsible for queue management. The officer shall issue customers with a service requisition form appearing as Appendix B as Annexure 1, and thereafter refer them to the correct counter for service.
- Each registry shall have counters designated for specific services. For customers with requests which cannot be processed on the same day, the Liaison Desk shall take their contacts and notify them of the outcome of their requests.
- First priority shall given to vulnerable groups such as the elderly, children, expectant women and persons with disabilities.
- Matters filed under Certificate of Urgency shall be filed at a designated express service counter which shall be clearly marked.

### **2.3.3 Customer Care Desk**

In order to improve customer satisfaction and employ key performance indicators to customers the following methods shall be in place:

- a) Complaints shall be addressed without delay, and in a language that the customers understand.
- b) All customers shall be sensitized by the Customer Care Desk on the automated customer service system. That is, the use of the SMS solution, 20583 and the Service Desk email address, servicedesk@judiciary.go.ke.
- c) Customers shall be requested to fill a feedback form on their level of customer satisfaction for appropriate interventions, the overriding principle being the 'Feel Good Factor' (FGF) where the customers' satisfaction shall be key. In this regard, registries shall collect customer feedback by use of a form appearing in Appendix B as Annexure 2, in addition to inquiry and request forms appearing in Appendix B as Annexure 3 and 4 respectively.
- d) Trained Customer Care Officers shall be deployed at the Customer Care Desk. The Customer Care Officer is required to have good knowledge of the general operations of the courts including the location of registries, court rooms, administrative offices and rest rooms.
- e) The Customer Care Officer shall satisfactorily address customers' enquiries and consult relevant offices for information required by customers.
- f) The officer manning the Customer Care Desk shall project positive body language as an expression of care and attention to customers.
- g) The Customer Care Desk shall maintain linkages and networks with registries so as to obtain and communicate important events to the customers such as changes in the cause list, adjournments/ rescheduling of cases and information on the courts not in session.
- h) Registers shall be maintained at the Customer Care Desk to record the details of all customers.
- i) The Customer Care Desk shall be equipped with a telephone extension line for communication with registries, comfortable seats, water dispenser, magazines, Judiciary brochures and LCD screens displaying court processes, services, vision and mission statements.

#### **2.3.4 Mail**

Incoming and outgoing mail shall be entered into a register indicating the action officer who shall sign for the mail.

#### **2.3.5 Filing Systems**

Filing systems should be simple to use and understand. The systems shall ensure that the whereabouts of every file is known at all times by all registry staff to enable expeditious access and retrieval of files.

#### **2.3.6 Storage of Files**

Files shall be stored in shelves consecutively in alpha numerical series in the order and year they were filed.

#### **2.3.7 Opening of Files**

The registration counter shall ensure that all new files meet the pre requisite legal requirements

before filing. The file covers shall reflect the colour codes and indexing for the various classes of cases. All new matters shall be given serial numbers to facilitate payment of filing fees before registration.

### **2.3.8 Numbering of Items in Files**

All documents in each file shall be filed consecutively and all folios serialized and proceedings paginated in reverse order. The case numbers form part of the pagination.

### **2.3.9 Daily Reconciliation of Files**

At the close of each day, the officer in charge of Records Management shall carry out a reconciliation to establish the whereabouts of each file which had been retrieved for a specified action. Details of the reconciliation shall be entered into the file retrieval register.

### **2.3.10 Distribution and Transfer of Files**

At the close of each day, files shall be returned to the filing section in the registry, sorted out for filing in clearly marked filing shelves and their physical state noted for redress as appropriate. Files which require action shall be handed over to the specific officers for action. A skeleton file shall be maintained by the record management section for all files transferred from one Court to another.

### **2.3.11 Tracing Files**

If a file is unavailable after 48 hours, the request document shall be sent to the Registry Supervisor to note and issue directions. Files shall be bar-coded for ease of traceability and file tracking.

### **2.3.12 Control and protection of Files**

All requests by any person who wishes to access records must be submitted in writing, in a form to be provided at the registry. The lighting of matches, smoking and storage of inflammable materials or cleaning solutions in the registry is strictly prohibited. Frequent inspection of records storage areas shall be carried out to ensure that water leakage is identified and repaired in time to prevent damage. Fumigation of registries shall be carried out every six (6) months.

### **2.3.13 Disposal of Files**

There shall be continuous appraisal and appropriate disposal of Court records while scrupulously adhering to laid down legal provisions. A bring up register shall be maintained to identify files due for disposal.

### **2.3.14 Electronic Records**

Any electronic document or record submitted to the Court for filing shall be deemed filed upon verification and confirmation of conformity to applicable provisions. Documents received before midnight on a Court working day shall be deemed filed on that day and acknowledgement made to that effect.

Electronic records created and maintained shall be supported by a Records Management System.

### **2.3.15 Reproduction of Records**

Court documents shall be photocopied upon completion of a written request, subject to approval and payment of the requisite fees.

**2.3.16 Court fees Assessment and collection**

All court fees shall be assessed correctly, and meticulously collected in strict observance of the laid down guidelines and principles.

Due attention shall be observed to avoid loss, underassessment or over assessment of Court fees. The court fees paid shall be properly receipted, accounted for and a court fees certificate prepared in the form provided for in Appendix B as Annexure 5 before the issuance of decrees, orders or closure of cases.

**2.3.17 Training of registry personnel**

There shall be continuous training of all registry personnel on registry operations.

### **3.0 GENERAL PROCESSES IN THE REGISTRY**

The common processes and the steps in all High Court registries include the following;

#### **3.1.0 Registration**

This will entail the following processes;

- a) Presentation of pleadings at the registry.
- b) Verification of pleadings and documents for completeness.
- c) Assessment of court fees.
- d) Verification of court fees deposit slip.
- e) Assignment of case number.
- f) Issuance of court fees receipt by the cashier.
- g) Date stamping of the documents.
- h) Registration of the case.
- i) Entry of data in case register (See Appendix A annexure 1) which may be amended as appropriate.
- j) Entry of data in the case management system.

#### **3.1.1 Filing**

- a) Files shall be sorted out and filed according to the desired next action.
- b) Pleadings and correspondence shall be filed chronologically on the right hand side of the file cover in reverse order.
- c) Proceedings shall be filed on the left hand side of the file cover in reverse order.
- d) Treasury tags shall be used to fasten the documents.
- e) Pleadings and proceedings shall be serially numbered and paginated by the Judicial Officer or Court Assistants.

#### **3.1.2 Court Fees Assessment**

The rules pertaining to the Court fees assessment are found in Part IX of the Judicature Act Cap 8 Laws of Kenya and the schedules to the various statutes. Assessment of court fees is based on the Guide to Assessment of Court fees Revised Edition, 1995.

Court fees is also known as ‘Appropriation-in-Aid’ and constitutes one of the sources of government revenue.

There are various categories of court fees such as:

- Court Adjournment Fees (CAF)
- Further Court Fees (FCF)
- Court Collection Fees(CCF)-Incase of deposits and execution of warrants by auctioneers
- Admiralty Marshal fees
- Fees on miscellaneous matters
- Fees on special cases

- Fees on part-heard matters
  - Mention fees
  - Certification fees
  - Reference to archives fees
- a) Court fees is payable in filing all matters except criminal matters. However, fees is payable in privately prosecuted criminal cases.
  - b) Other exemptions from payment of court fees are those provided under Article 22(3) c of the Constitution of Kenya 2010 and the provisions of Order 33 of the Civil Procedure Rules in case of paupers.
  - c) Court fees is payable in other miscellaneous matters relating to brokers licenses, advocates admission, notary public appointments and/or renewal of certificates, court library membership and renting of lockers for use by advocates.
  - d) In civil matters, there are two categories of court fees, that is, fees on liquidated claims; and fees on non-liquidated claims i.e. claims for other reliefs or unspecified amounts of money.
  - e) No court fees shall be deliberately under assessed.
  - f) No decree or order shall be issued by the registry without payment of further Court fees in case of non-liquidated claims.

#### 3.1.2.1 Calculation of fees for liquidated claims

- The fees payable for monetary claims from Ksh 1- 6000 are specifically tabulated in the court fees guide. However, any court fees in excess of Ksh 5000 is assessed by subtracting 5000 from the amount claimed and then multiplying the balance by 5% and adding that value to Ksh 730 which is the fees payable on the KS 5000 initially subtracted from the amount claimed.
- A court fees certificate shall be completed and signed by the DR before a decree or order is signed and issued.
- Court fees is non- refundable except in cases where court fees has been wrongly assessed.

#### 3.1.2.2 Contention of Court Fees

In cases where there is contention of court fees assessed, the followings steps shall be taken;

- a) Fees shall be paid as assessed.
- b) A written protest shall be filed within 7 days after assessment stating the reason(s) for contention.
- c) Fees shall be reassessed by the registry.
- d) Party shall be informed of the outcome by the registry in writing.
- e) Refund of fees over assessed shall be made.
- f) In the event that the party is still dissatisfied, file shall be referred to the Resident Judge or the DR for determination.
- g) Order made on fees shall be final.  
A fee of 100/= is payable upon filing a written protest. The fee is refundable in case of a successful protest.



### 3.1.2.3 Fees on general damages

- General damages are those whose claim cannot be estimated at a monetary value by the parties and at the registry. The fee for such claims is KS 1,500 in the first instance, per relief sought.
- The actual fees payable is paid as further court fees (FCF) once the amount of damages has been assessed and awarded by the court or by consent of the parties.

### 3.1.3 Bring ups

- Files shall be brought up for action after every 30 days and recorded in a bring-up diary.
- In all Appeal cases reminders for the lower Court/tribunal records shall be sent after every two months.
- The third reminder shall be copied to the Registrar High Court and Magistrates' Courts for intervention.

### 3.1.4 Movement of files

- All files shall have a tracking card.
- Each Judicial Officer and Judicial staff shall have a serialized file movement register where all interactions with files shall be recorded.
- Movement of all files shall be manually and electronically captured.

### 3.1.5 Transfer of files

- a) Files shall be transferred by an order of the Court.
- b) The order of transfer shall be entered in the main suit register and or case management system.
- c) After a file is transferred, a case skeleton file shall be opened and kept in the shelf together with the tracking card and a copy of the order transferring the case.
- d) The cases transferred shall be reduced from the number of outstanding cases.
- e) A new case number shall be assigned to the cases transferred and received from other Courts.
- f) A file shall be opened and details of the case captured in the manual register and in the electronic case register.
- g) The station receiving the file shall acknowledge receipt of the file and notify the court of origin and the parties of the new case number by a letter or email.
- h) Files transferred to other courts shall be forwarded immediately without delay and the same shall be received by the Deputy Registrar who shall place them before the Judge for directions

### 3.1.6 Service of Court Process

- a) A process server shall be assigned the court process to serve by the Registry Supervisor.
- b) A register of process service shall be maintained in each registry and all court processes duly entered. The Register is marked in Appendix A as Annexure 2.

- c) Affidavit of service shall be filed and placed in the file after service of court process.
- d) Affidavit of service by private and foreign process servers shall be accompanied by a copy of current practicing license.
- e) In case of Foreign Service a letter forwarding the document for service abroad shall be prepared and forwarded through the Ministry of Foreign Affairs and International Trade.
- f) Cost incurred for service of foreign legal process shall be prepared and sent for payment by the party requesting service through the Ministry of Foreign Affairs.

### **3.1.7 Certificates of Urgency**

- Certificates of Urgency that are filed between 8.00 am and noon shall be heard the same day.
- Certificates filed later than 12 noon shall be slated for hearing the following day.
- Files shall be taken to the Deputy Registrar for verification before being placed before the duty Judge.

### **3.1.8 Court Orders**

- a) The Court Assistant attached to a court shall ensure orders in respect to Certificates of Urgency are prepared and typed whether or not the parties have applied for such orders.
- b) In respect of other matters, the Court Assistant shall receive a draft from the applicant in soft copy, proof read and amend it as may be necessary.
- c) The Court Assistant shall present the extracted order to the Deputy Registrar for signature upon payment of requisite court fees.
- d) The Liaison Desk shall dispatch the signed Order to the parties.
- e) The file shall be returned to the records management section for safe custody.
- f) All orders granted shall be signed and issued on the same day.

### **3.1.9 Proceedings**

- a) There shall be continuous typing of proceedings by the Court Administrative Assistant attached to respective Judicial Officers.
- b) Parties, who wish to apply for proceedings, shall fill a request form.
- c) The Front Office shall channel the request to the Appeals section, where the request shall be recorded in the proceedings register. The Appeal section shall thereafter allocate the proceedings to the relevant Judicial Officer's Court Administrative Assistant.
- d) The Court Assistant attached to the said Judicial Officer shall proof read the proceedings.
- e) The proof read draft shall then be returned to the said Court Administrative Assistant for necessary corrections if any.
- f) Once the proceedings are ready, the applicant shall be notified by the Liaison Desk of the completion of the proceedings and advised of the balance of Court fees.
- g) The proceedings shall be certified by the Deputy Registrar before collection.
- h) The proceedings shall be released to the applicant who will acknowledge receipt of the same.

- i) Weekly and monthly returns shall be prepared by each Court Administrative Assistant in forms marked as Appendix B Annexures 6 & 7 respectively.

## **3.2 Court Sessions**

### **3.2.1 Court Procedure**

- a) The Court Assistant shall receive all files that are scheduled to appear on the cause-list from the officer in-charge of the dates section the day before the date of hearing and record the files in his diary.
- b) The Court Assistant shall write the coram, flagging the relevant documents and pleadings and shall ensure that files are properly tagged and worn out folders replaced.
- c) The Court Assistant shall arrange the files according to the cause list and forward them to the Judicial Officer hearing the matters at least a day before the date of hearing.
- d) Each morning, the Court Assistant shall ensure that the court is cleaned, writing materials are in place, and all automated systems are functioning.
- e) At the appointed time, the Court Assistant shall open the court for the litigants and advocates.
- f) The Court Assistant shall inform the Judicial Officer that the Court is ready at the relevant time.
- g) After the Judicial Officer is seated, the Court Assistant shall greet the customers, introduce the judicial officer and all other officers of the court present and invite the judicial officer to take charge.
- h) During the court session the Court Assistant shall call out the files according to the cause list.
- i) In criminal matters, the Court Assistant shall establish the language of the litigant; read the plea and ask the accused to answer to the charges.
- j) The Court Assistant shall ensure that the interpretation is carried out as required, update the court diary, receive exhibits and fill out the necessary forms.
- k) At the end of the court session, the Court Assistant shall call the court to attention for the Judicial Officer to leave.
- l) At the end of the day, the Court Assistant shall enter the position of each case in his/her diary and in the electronic case management system.
- m) The Court Assistant shall extract any orders given by the court and prepare the daily statistical returns.
- n) The Court Assistant shall return the files to the registry and distribute them to the relevant officers for action as per the court orders. In the course of doing this, the Court Assistant shall ensure that he clearly indicates in his file register and the case management system the officer he has handed over each court file to.
- o) The Court Assistant shall submit case returns to the Registry Supervisor at the end of each day.

### **3.2.2 Handling of Exhibits**

- a) The Court Assistant shall receive and mark the exhibits produced in court

- b) As the exhibits are produced, the Court Assistant shall prepare a list of exhibits.
- c) Documentary exhibits shall be clearly marked and kept in the Court file.
- d) Valuable documentary exhibits for instance title deeds, logbooks, money shall be kept in a sealed envelope and its content clearly marked and handed to the Registry Supervisor for safe keeping.
- e) Other exhibits shall be listed in the exhibit register by the Court Assistant and handed over to the exhibits store officer.
- f) Motor vehicle exhibits once produced shall be secured in a designated parking and the key deposited at the exhibit store.
- g) Substance products for instance narcotics and alcoholic drinks shall be kept in a substance store.
- h) Forest and wildlife products shall be photographed, documented and returned to their respective departments for safe custody.
- i) All exhibits produced in civil proceedings shall be retained by the Court until conclusion of the case.
- j) A Register of Exhibits is marked in Appendix A as annexure 3.

### **3.2.3 Handling of Security Documents**

#### **3.2.3.1 Bond processing**

- a) Each registry shall have a notice clearly indicating the person handling bond processes.
- b) Securities shall be presented to the designated officer/desk for verification.
- c) Letters shall be written to relevant authorities for verification of the authenticity of the security documents or identity cards. The letters shall be delivered by a Court Process Server.
- d) Examination and approval of sureties shall be carried out by the Deputy Registrar.
- e) Surety forms/release orders shall be prepared by the Court Assistant attached to the Deputy Registrar for signature by the Deputy Registrar.
- f) Release orders shall be dispatched to prison authorities by the Liaison Desk.
- g) Judicial Officers shall order for release of the cash bail or security automatically once the matter is finalized.

#### **3.2.3.2 Security Documents**

- a) Log books
- b) Title deeds
- c) Pay-slips and an introduction letter from the employer
- d) Identification cards
- e) Coloured passport size photographs
- f) Official search for the documents
- g) Official search receipt
- h) Valuation Report as may be necessary

### 3.2.3.3 Bond forms

- i. Particulars of surety forms (Appendix B as Annexure 8)
- ii. Bond and bail bond (Appendix B as Annexure 9)
- iii. Release order where surety has signed bond (Appendix B as Annexure 10)
- iv. Release order where cash bail has been paid (Appendix B as Annexure 11)

### 3.2.4 Fixing of Hearing Dates

- a) Courts shall fix matters for hearing and serve hearing notices on advocates or parties. Priority shall be given to older matters.
- b) Advocates and parties in person can also take hearing dates after issuing invitation letters.
- c) Invitation letters from the parties shall be brought to the registry one week in advance, to allow sufficient time to retrieve files.
- d) The Court Registry Assistant in charge of issuing dates at the registry shall confirm service on the other party and ensure that the matter is ready for hearing before issuing a date.
- e) For dates taken ex-parte parties shall be requested to undertake service on the other party.
- f) Dates shall be issued on two designated days in a week between 8:30 am -12:30pm.
- g) The Court Registry Assistant issuing dates shall clearly indicate the date given on the file.
- h) Before signing the date minute, the Deputy Registrar shall verify that the matter is ready for hearing.
- i) In the event that the Deputy Registrar finds that the matter is not ready for hearing, the parties will be notified by the Liaison Desk to attend a mention before the Deputy Registrar to be notified of the position.
- j) Judicial officers can also fix dates in court. Dates fixed in court shall be captured by the Court Assistant and transferred into the master diary at the end of the day.
- k) The Deputy Registrar shall inspect and sign the master diary once a week.
- l) The Court Assistant and Court Registry Assistant in charge of dates shall reconcile the master and Court diaries at the end of each day.
- m) Part heard matters shall be listed before the Judge seized of the matter.
- n) While fixing hearing dates, priority shall be given to the old cases, children matters, divorce causes and matters for formal proof.

### 3.3 Cause listing

- a) The Cause list shall be prepared one week in advance by the Court Registry Assistant in charge of the Dates section.
- b) The Deputy Registrar after consultation with the Presiding Judge shall approve the cause list which shall thereafter be posted on the internet.
- c) A hard copy of the cause list shall be posted on the Court notice board.
- d) The cause list shall be classified into hearings, mentions, applications, notice to show cause, submissions, rulings and judgments.
- e) The cases that have been taken out of the hearing list shall be indicated in the daily cause list.

- f) The Deputy Registrar shall give directions on urgent matters which have been taken out of the cause list.
- g) The reasons for taking out cases shall be recorded as part of court proceedings by the Deputy Registrar.
- h) The Liaison Desk shall notify the parties whenever matters are taken out.

### 3.4 Statistical Returns

- a) Daily, monthly and annual returns of cases are prepared by the Court Assistants, Legal Researchers and Registry Supervisors respectively.
- b) The returns provide details on the number of cases registered, decided, transferred, pending and average age of the case since its institution.
- c) If matters are adjourned, the reasons for the adjournment shall be indicated in the daily case returns and the case management system by the Court Assistants.
- d) A case returns register shall be maintained by the Registry Supervisor.
- e) The returns shall be entered by a Registry Supervisor into a specially designed Statistical Returns template and submitted online to the Directorate of Performance Management.

### 3.5 Handling of Mail

- Mail activities are categorized into in-coming and out-going mail
- Incoming mail is received through:
  - o Post Office
  - o Courier
  - o Office Assistant
  - o E-mail
- Mail from Post Office is collected and dispatched to the registry by the Mail Registry personnel for distribution to the respective Divisions/Sections.
- Mail received through Courier services is signed for by the receiving officer.
- The plastic bag containing the Mail is opened and the contents are noted before the Courier service officer leaves.
- The Inter-divisional mail or mail from outside is delivered to the officer concerned by an office assistant.
- The details of the mail are entered in the GP. 54 Delivery Book.
- The receiving officer signs in the delivery book upon receipt.
- Electronic Mail (e-mail) is used for Inter-Directorate and Inter-Personal office communication.
- The official e-mail address contains the officers first name.surname@judiciary.go.ke
- All incoming mail shall be date stamped with the official receiving stamp which shall indicate the date of receipt and the action officer.
- All incoming mail is entered in an incoming mail register by a designated registry officer. (Appendix A as Annexure 4).
- All out-going mail is entered in an outgoing mail register by a designated registry officer. (Appendix A as Annexure 5).

## **4.0 RECORDS MANAGEMENT PROCESSES**

A high degree of continuous responsibility and control of Court records must be exercised from creation receipt, transmission and eventual disposition of Court records to ensure that they are authentic and reliable for the conduct of Court business.

### **4.1 Filing Systems**

#### **4.1.1 Classification**

- Files are classified in a systematic manner in accordance to the types of cases in the Court.
- The logical sequence of classification of files enables easy retrieval of files.

#### **4.1.2 Filing**

- a) Case files are filed in Alpha-Numerical order which is a combination of letters denoting the Classification of the case e.g. HCCC, HCCA etc. and numerals denoting the case number and year filed e.g. 304/2013.
- b) All correspondence, pleadings and proceedings are numbered sequentially, including case number, by indelible ink pen. The system of numbering correspondence must be consistent with proceedings being numbered from left to right and pleadings from right to left.
- c) Court files are filed in either vertical or horizontal order depending on the specifications of the shelves and should have a tag for every bundle of 50 or 100 files as may be appropriate.
- d) Storage shelves should be properly marked and labeled to enable retrieval of files from a given series.

##### **4.1.2.1 Requirements for Filing**

The following measures are taken before filing;

- a) Ensure the document belongs to the file selected.
- b) Ensure the file reference on the document corresponds with the case number of the file.
- c) Make sure all pages of a multiple page document are present.
- d) Ensure all attachments (if any) are included.

All documents filed are entered into a minute sheet maintained in every file containing details of the case number, type of document, date filed and signature of the officer receiving the document as appearing in Appendix B as Annexure 12.

#### **4.1.3 Retrieval of files**

- a) Members of public have no access to the Registry and filing space.
- b) Staff are accommodated in the Registry away from the filing space/shelves.
- c) The filing shelves are not accessible to unauthorized staff other than those responsible for filing and retrieval of files.
- d) Requests for files is made in writing and acknowledged on receipt by imposing a date stamp.
- e) A request for perusal of files is made in the Form appearing in Appendix B as Annexure 13.
- f) Perusal of files is done upon payment of perusal fee.
- g) Internal and external requests for files are recorded in a file Retrieval register appearing in



Appendix A as Annexure 6.

- h) External requests for files are done one day before the desired service, except when filing certificates of urgency and matters by unrepresented clients.
- i) File tracking cards are placed where a file has been retrieved.
- j) Files retrieved are entered in both manual and electronic file tracking system.

#### **4.1.4 File Movement Register**

- a) All files moved to and from the registry are entered in a file movement register appearing in Appendix A as Annexure 7.
- b) The information contained in the file movement register is entered in an electronic system as a backup and for ease of tracking records.

#### **4.1.5 Bring-Up Diary**

The Bring –Up (BU) system is used for purposes of monitoring of processes in the registry.

- a) The bring-up system is used as one of the prime indicators of the efficiency of a registry and of the trust and reliance placed on it by action officers.
- b) The bring ups are regulated by the statutory requirements and or practice directions on case management.
- c) The bring-up system eliminates the need for action officers to hold on to files for long periods unnecessarily and also helps to keep offices uncluttered.
- d) The registry/archives maintains bring-up records by the use of a desk diary with a space for each day.
- e) File users must indicate the need for, and details of, any ‘bring-up’ (BU) in writing.
- f) Registry/Archives staff record the request in the Bring-up diary under the appropriate date.
- g) Each day, the member of the Registry staff responsible for the BU diary, must do the following:
  - (i) Check the Bring-up diary for the next day’s entries;
  - (ii) Retrieve each file due for BU;
  - (iii) Record on the movement register and tracer card the files dispatched to the relevant officers the next working day.
  - (iv) If a file due for BU is not in the Registry, then the Registry staff must locate it, using the tracer cards and movement register.
  - (v) If the file is already being used by the officer who has requested it, or by another officer, it is the responsibility of the registry/Archives supervisor to notify the officer(s) and coordinate action between them.

#### **4.2 Reproduction of Records**

- a) Reproduction (Photocopying, scanning etc.) Of Court records are carried out based on written requests made at least one (1) day in advance to the Deputy Registrar or by an order of the Court in-case of Court proceedings.
- b) Reproduction of Court records is subject to payment of the requisite Court fees, save for the media who are given one copy of decisions in cases of public interest. A soft copy of the decision



is also provided to the media.

- c) Requests for photocopying of Court records shall be made in the form appearing in Appendix B as Annexure 14.

#### **4.3 Accessioning of Archives Files**

Accessioning is the process of the Court archives acquiring concluded case files from the registries.

- a) The archives receive files from the Registry which are entered into an accession register in Appendix A as Annexure 8.
- b) Worn out file covers and documents are repaired before filing.
- c) Accessioned files are filed in their respective pigeons/shelves in appropriate series, according to the registry of origin, and the order of their creation.

#### **4.4 Custody and Safety of files**

- a) Files are stored in appropriate filing shelves and storage cabinets, in areas devoid of humidity, pests and with controlled temperature.
- b) Control of access to storage areas is limited to only authorized personnel.
- c) All requests for files from any persons are submitted in writing.
- d) Lighting of matches, smoking and storage of inflammable materials or cleaning solutions in the registry/archives is strictly prohibited.
- e) There must be carbon dioxide fire extinguishers in all registries and archives, which shall be inspected regularly.
- f) There will be frequent inspection of records storage areas by the Court Deputy Registrar to ensure that water leakage is traced in time and repaired to prevent damage.
- g) Fumigation of registries and archives is done every six (6) months.
- h) Records must be protected from direct sunlight.
- i) No food or drink is consumed at a table where files are processed.
- j) Electrical equipment must be switched off at the end of the day.
- k) Regular fire drills are conducted.
- l) Disaster preparedness plan is tested regularly.

#### **4.5 File Audit**

- a) File audit is regularly conducted to ensure that the parameters set out in the case management timelines provided for in the various statutes are met.
- b) In order to confirm the location of files that are not in the Registry's custody, registry/archives staff must carry out regular file audits (at least once a month). If no discrepancies are found the frequency of file audits can be reduced.
- c) By the second week of every month, each action officer is visited by a designated registry/archives officer who lists on a census sheet the file number and parties of all the files held by that officer.
- d) All files not being used by the officer are returned to the Registry immediately.
- e) The Audit ascertains that details of concluded cases have been entered into the case register, that is, the result of the case, date of such decision and Judge/magistrate who made the decision.

- f) The findings of the Audit and all action points are presented to the Deputy Registrar.

#### **4.6 Tracing and Reconstruction of Missing Files**

If a file is missing, the Registry will take the following steps:

- a) The Registry Supervisor checks file movement register to identify the person in whose possession the file was last recorded. The Supervisor instructs him/her to trace the file.
- b) If the file is not traced, the registry supervisor circulates a memo to all staff in the Station/ Registry asking them to check whether the file is in their possession. If the file is not found within 24 hours, the supervisor will notify the Deputy Registrar.
- c) The Deputy Registrar then initiates a special search.
- d) If the file is not traced after this first search, the Registry Supervisor writes the words 'Original file missing', in pencil, on the relevant case register.
- e) The Registry Supervisor then enters the details of the missing file in the register of missing files which is maintained by the Registry Supervisor.
- f) After a fruitless search of 14 days, the Deputy Registrar issues a certificate to confirm the loss and recommends the reconstruction of the file.
- g) Parties are informed of the non-availability of the file in writing by the Deputy Registrar with a recommendation for reconstruction.
- h) In the event that a missing file is traced, the date of recovery is recorded and its availability is communicated to the parties concerned by the Deputy Registrar within 24 hours of its tracing. A certificate confirming the recovery will be issued.
- i) The file once traced is merged with any skeleton file that may have been opened.

##### **4.6.1 Skeleton Files**

- a) If action or an application is to be made on a file that is missing, the registry shall ensure that a skeleton file is opened, subject to reconstruction orders being granted and the desired action taken.
- b) A skeleton file is assigned the same number and parties as the original missing file and its existence and movement is recorded in the normal way.
- c) Special printed skeleton file covers are used for reconstructed files. In the absence of printed skeleton file covers, a standard file cover for the station is used but it must be boldly marked with the word 'SKELETON'.

#### **4.7 Disposal of Records**

##### **4.7.1 Records Survey**

Before appraisal and disposal of records is carried out, a records survey is conducted to ascertain the volume of records to be appraised, the storage areas or rooms the records are kept, conditions of storage, formats of records (paper or electronic), physical characteristics e.g. Maps, sketch plans etc. and a report made on these observations.

#### 4.7.2 Criteria for determining records that may be disposed/ destroyed

No.	Description of Records	Period after which the records may be destroyed
1.	All records rendered illegible or useless by climate, insects, fire or water.	At once
2.	Records in civil proceedings, other than those relating to: <ul style="list-style-type: none"> <li>- title to immovable property</li> <li>- Succession Causes/Inheritance/ Right of heirship</li> <li>- Constitutional and Human Rights issues</li> <li>- Rights to water, air, way, light or other easement</li> <li>- Custom of a tribe, community or locality.</li> </ul>	12 years from date of judgment or final order.
3.	Records in criminal proceedings where acquittal or discharge has been ordered or fines only imposed, orders for security made or sentences of imprisonment not exceeding one (1) year passed and where accused has been committed for trial and complaints dismissed by a magistrate.	3 Years from date of judgment or final order.
4.	<ul style="list-style-type: none"> <li>- Police reports of death and Inquest records.</li> <li>- Miscellaneous police reports.</li> <li>- Reports of railway accidents</li> </ul>	3 Years from date of preparation.
5.	Judicial returns from magistrates Courts	3 Years from date of preparation.
6.	Books of accounts lodged in bankruptcy proceedings where a discharge was granted	3 Years from date of discharge.
7.	Miscellaneous correspondence regarding dates of trial, service of summons, execution of warrants, transfer of proceedings, attendance of witnesses and related correspondence.	3 Years from date of correspondence..
8.	Books of account and miscellaneous documents, other than records relating to estates of deceased persons which have been distributed and accounts audited.	3 Years from date of audit.
9.	Books of account lodged in connection with bankruptcy proceedings.	12 Years from date of adjudication.

*(Source: Records Disposal Act, Cap 14 Laws of Kenya)*

#### 4.7.3 Appraisal of records

- A physical audit of case files is conducted after conclusion of the cases, to ascertain whether they qualify for disposal or permanent preservation as per the guidelines provided for by the Records Disposal Act Cap 14 as summarized hereinabove.
- The audit is triggered by maintaining a bring- up register to be informed by the retention and disposal schedule maintained in the registry/archives.
- The case files identified for disposal are then listed.
- A draft gazette notice is then prepared for cases destined for disposal and submitted to the Chief Registrar or other designated officer to facilitate gazette and publication in the form provided in Appendix B as Annexure 15.

- e) The archivist communicates to the responsible registry/Court upon gazettelement, the date of gazettelement and gazette number of the intended destruction.
- f) On expiry of three months after gazettelement, the Court makes a request to the Hon. Chief Justice seeking authority to destroy the records, books or papers in respect of which the gazette notice was issued.
- g) Once authority is granted, the Archivist ensures that the disposal authority is communicated to the Courts/ registries within twenty (24) hours.
- h) All records to be destroyed are burnt in the presence of a magistrate or Deputy Registrar or any other authorized officer. The said officer makes an entry in the Court register in red the letter 'D' and the date of destruction against each case's particulars.
- i) In the interest of environmental conservation, authority to burn shall be sought from the National Environment Management Authority (NEMA).
- j) Upon destruction, the Court or station submits a certificate of destruction as per the Form in Appendix B as Annexure 16.
- k) A register is maintained in the archives of all records destroyed as per the certificates of destruction submitted. The register shall contain particulars of the records disposed, the date of disposal authority granted by the Chief Justice, the date of destruction, and the date of the certificate of destruction.

#### **4.8 Disposal of Exhibits**

Disposal of exhibits can be by way of sale or destruction;

- a) The trial or duty Court makes an order for disposal of exhibits at the conclusion of the case.
- b) The disposal is overseen by the trial/duty court, the officer in charge of prosecution, the in charge of the exhibits store and the Court Assistant.
- c) Disposal of exhibits must be recorded in the proceedings.

##### **4.8.1 Perishables**

- a) Perishable exhibits are disposed of on the date of plea and a certificate of destruction/ disposal placed in the court file awaiting hearing and determination of the case.
- b) Photographs of exhibits and the disposal process are taken by an officer of the court.
- c) At the conclusion of a case, any of the party entitled to the exhibit already disposed of is entitled to the proceeds of the sale.

##### **4.8.2 Drugs and Substances**

- a) Alcoholic exhibits are either sold or destroyed as per the order of the trial Court.
- b) The trial or duty Court makes an order authorizing destruction of the exhibits in a manner proposed by the anti-narcotic agency and in consultation with the National Environment Management Authority (NEMA).
- c) Narcotic exhibits are disposed of in the presence of anti-narcotic agency.

##### **4.8.3 Auto mobiles**

- a) The trial/duty Court makes an order for the disposal of Automobiles.

- b) The Court order is extracted by the Court Assistant and forwarded to the directorate of Supply Chain Management of the Judiciary to initiate the process of auctioning.
- c) After the sale a receipt is issued and the necessary transfer documents prepared.
- d) The proceeds of the sale revert back to the state.

## **5.0 TYPES OF CASES AND PROCESSES IN THE REGISTRIES**

### **5.1 HIGH COURT CRIMINAL CASES**

The processes in criminal cases are governed by the provisions of the Criminal Procedure Code Cap 63 Laws of Kenya, and the Rules thereto.

The High Court criminal registry handles the following matters:

- a) Murder cases
- b) Applications
- c) Appeals and Revisions from the decisions of Magistrates' Courts and Court Martial trials

#### **5.1.1 Murder Cases**

##### **5.1.1.1 Requirements for Registration**

- a) Information from the ODPP
- b) Witnesses' statements, list of witnesses and list of exhibits

##### **5.1.1.1.1 Registration**

- a) Information is received from the Office of the Director of Public Prosecutions(ODPP)
- b) The following details are entered into the case register:
  - i) Case number
  - ii) Date of registration of the Information
  - iii) Name(s) of accused person(s) and nationality
  - iv) The charge(s)
  - v) Name, Force number and Contacts of the Investigating Officer
  - vi) Relationship of accused and the deceased
  - vii) Gender of the accused person(s)
  - viii) Gender of the deceased person(s)
  - ix) Age indicating whether accused is an adult or a minor

##### **5.1.1.2 Plea Taking**

- a) After the case has been registered the file is taken to the Judge for mention.
- b) A remand warrant is prepared by the Court Assistant to accompany the accused in custody.
- c) An advocate is appointed to represent the accused from a list maintained in the registry. An appointment letter and the witnesses' statements are served upon the appointed advocate. The letter is marked in Appendix B as Annexure 17.
- d) After the advocate has been appointed the plea is taken by the court at a date given for plea. The pleas must be read in a language that the accused person understands.
- e) After plea is taken by the Judge, the Judge gives directions as to the hearing date.
- f) The date is entered into the master diary and the case management system by the Court Assistant.
- g) Upon conclusion of the hearing the court issues an order for the payment of the fees of

the pro bono advocate. The Court Assistant extracts the order and after execution by the Deputy Registrar, forwards the file to accounts for processing.

## **5.1.2 Applications in Criminal Matters**

### **5.1.2.1 Nature of applications**

- a) Application for bail and bond
- b) Application for leave to appeal out of time
- c) Application for stay of proceedings in the lower Court
- d) Application for anticipatory bail

### **5.1.2.2 Requirements**

- a) Notice of motion.
- b) Supporting Affidavit duly commissioned.
- c) The application should be dated and signed by the applicants.
- d) Official court fees receipt.

#### **5.1.2.2.1 Registration**

- a) The documents are presented at the registration counter.
- b) The documents are verified by the Counter Officer at the registration counter.
- c) The parties are encouraged to assess filing fees using provided forms at the counter. However, in the event that they are unable to do so, court fees are assessed at the registration counter.
- d) Once court fee is paid, the Court Registry Assistant date stamps the Application.
- e) The details of the application are entered into the register and case management system. A number is allocated.

### **5.1.2.3 Dates for Applications**

- a) In cases where a party is represented by an advocate, hearing dates are fixed in presence of the advocate.
- b) Applicants who are in custody or who appear in person are served with hearing notices before the hearing date by the court process server.
- c) A production order accompanies the hearing notice for the accused to be brought in court on the hearing date.
- d) The Office of the Director of Public Prosecutions must be served with every application and a hearing notice.
- e) After hearing and determination of the applications the results are typed and dispatched to the lower Court and the ODPP together with certified copies of the ruling and or orders for compliance.

## **5.1.3 Criminal Revisions**

### **5.1.3.1 Registration**

- a) Deputy Registrars shall continuously receive weekly returns on criminal cases from lower

courts under the Jurisdiction of the High Court.

- b) The Deputy Registrars shall forward for direction cases deserving of Revision to the Judge on a day to be set aside for Revisions.
- c) Revisions by parties are instituted by way of application or letter addressed to the Deputy Registrar.
- d) If the Judge directs that the lower Court record be availed, a request for the file shall be prepared by the Court Assistant and taken to the Deputy Registrar for execution on the same day.

### **5.1.3.2 Fixing dates for Revisions**

- a) Hearing dates are taken in presence of the advocate on record.
- b) Applicants appearing in person and who are in custody are served with hearing notices by the court process server.
- c) The Office of the Director of Public Prosecutions must be served with every application and a hearing notice.
- d) After hearing and determination of the applications the results are typed and dispatched to the lower Court and the ODPP together with certified copies of the ruling and or orders for compliance.

## **5.1.4 Criminal Appeals**

### **5.1.4.1 Requirements**

- a) Appellant acting in person and in prison must attach committal warrant in the petition.
- b) A Petition of Appeal duly filled.
- c) A certified copy of the judgment and a charge sheet if the appellant is represented.
- d) Advocate must provide the prisoner's prison number for purpose of issuing a production order.
- e) Seven certified copies of the lower court proceedings and judgment properly indexed and paginated.
- f) List of exhibits.
- g) List of witness.
- h) If the petition is filed out of time, leave should be obtained by making an application to the Court.

#### **5.1.4.1.1 Registration Process for First Appeals**

- a) The appeal is presented at the counter.
- b) Court fee is assessed for represented petitioners.
- c) Appellants in custody are exempted from payment of Court fees.
- d) Petition is registered and criminal Appeal number issued.
- e) Petition is stamped with the date.
- f) Appeal file is opened.
- g) File is referred to the appeals section for requests for the lower Court records to be made.



- h) The Appeals section enters the date the file is to be brought up into the bring-up diary and case management system.
- i) After three weeks, a reminder is sent to lower courts.
- j) First letter is dispatched to prison authorities and counsel on record.
- k) At the end of every week, the Liaison Desk forwards to the prisons contact person the list of appeal numbers of appeals filed.
- l) Appeal file is filed away to await lower court records.
- m) In the event that the lower court file is not received after the third reminder, a letter shall be written to the RHC and copied to the RMC.
- n) Lower Court records are received and proofread.
- o) Lower Court file is merged with Appeal file.
- p) Files are forwarded for admission by the Hon. Judge.
- q) Register is stamped to indicate that appeal has been admitted.
- r) The Liaison Desk informs the Prisons Liaison that Appeal has been admitted.

#### **5.1.4.2 Hearing Dates**

- a) Two Judge Bench matters are separated from single Judge Bench matters.
- b) The record of Appeal is served on the appellants or the advocates and the Office of the Director of Public Prosecutions.
- c) The call over list is prepared before the start of the court term starting with the oldest Appeal.
- d) The call- over list containing the criminal appeal numbers, the lower court case number, the name of the appellants and the hearing dates allocated to each appellant is served to the Office of the Director of Public Prosecutions and the Prison authorities.
- e) Service of hearing notices upon the Director of Public Prosecution and appellants/ advocates.
- f) Production orders are issued to prison authorities.
- g) After hearing and determination of the Appeal, result of the appeal (Appendix B Annexure 18) and signal (Appendix B Annexure 19) are typed and dispatched to the prison authorities.
- h) The lower court records are returned with the result of appeal together with two certified copies of the High Court judgment. One of the copies is for the trial magistrate's personal record. In the event that the conviction is upheld, the lower court record will be retained for a period of six months so as to allow time for appeal in the Court of Appeal.
- i) A certified copy of the judgment is also dispatched to the ODPP.
- j) Results of the Appeal are entered in the case register and case management system.

#### **5.1.5 Second Appeals**

##### **5.1.5.1 Requirements**

- a) Notice of Appeal.
- b) Seven certified copies of proceedings from the High Court.

- c) Seven certified copies of proceedings from the lower Court.
- d) Original High Court file.
- e) Original lower Court file.

#### **5.1.5.1.2 Registration and processing of second Appeals;**

- a) Notice of Appeal is presented at the registration counter.
- b) Fees is assessed where the notice is being filed by an advocate. Unrepresented prisoners do not pay filing fees.
- c) Notice of Appeal is stamped and registered.
- d) Notice of Appeal, together with the High Court file is forwarded to Deputy Registrar for signature.
- e) Request for the lower Court file is sent to the lower court registry if the file had already been returned.
- f) The file is transferred to the Appeals section.
- g) The Notice of Appeal to Court is sent to the Court of Appeal Registry for assignment of an appeal number. The details of the notice are entered into a register and a case management system.
- h) Follow up is made with the Court of Appeal within two weeks to ensure that a Court of Appeal number has been issued.
- i) If no Appeal number is issued, a letter is written to the Registrar High Court indicating this.
- j) High Court proceedings are typed and proof read.
- k) Records of Appeal are prepared.
- l) The appellant is served with a copy of the Record of Appeal.
- m) Record of Appeal together with original High Court & Lower Court files is sent to the Court of Appeal.
- n) A copy of the record is sent to the Office of the Director of Public Prosecution.
- o) After the Appeal is heard and determined, the results of the Appeal is entered in the case register.

## **5.2 CIVIL CASES**

Civil cases include the following:-

- a) Contract and Tenancies
- b) Tort -Defamation, Nuisance, Negligence, Trespass, running down/accident cases etc.
- c) Miscellaneous Civil Applications.
- d) Appeals from Subordinate Courts and Tribunals. e.g. Rent Restriction and Business Premises Rent Tribunals, Provincial Appeals Committee, Alcoholic Drinks Control Licensing Committees, Co-operative Tribunals, etc.
- e) Disputes related to leadership in Churches, Sports Association, Professional bodies, Clubs. The processes in the High Court and Magistrates Civil Courts are governed by the Civil Procedure Act Cap 21 and the rules thereof save for the jurisdiction.

### 5.2.1 Requirements

- a) Choice of Track viz Small Claim, Fast Track, Multi Track.
- b) Name of the Court in which the Claim is filed.
- c) Sworn verifying affidavit(s).
- d) Physical, postal, e-mail addresses and mobile telephone contacts of all the parties and or advocates.
- e) Summons to Enter Appearance.
- f) List of Witnesses.
- g) Plaintiff's statements.
- h) Written statements by the witnesses except expert witnesses.
- i) Copies of documents to be relied upon during trial.
- j) Demand letter.
- k) Authority/Consent to sue in case of representative suits which are instituted by way of originating summons.

#### 5.2.1.1 Registration procedure for Civil Cases

- a) Plaint/Originating Summons is presented at the registration counter.
- b) Pleadings and documents are verified.
- c) Court fees is assessed.
- d) Payment voucher with serial number is issued.
- e) Court fees deposit slip is verified.
- f) Case number is assigned.
- g) Court fees receipt is issued by the cashier.
- h) Documents are date stamped.
- i) Case details are registered in a manual and electronic Civil Case Register.
- j) Case file is opened.

### 5.2.2 Issuance of Summons

- a) Summons to enter appearance are signed by the Deputy Registrar or Registry Supervisor.
- b) Summons are sealed with the Seal of the Court on the day of filing the suit and issued by the Court within 30 days from the date of filing.
- c) The suit abates where summons to enter appearance are not collected within 30 days of issuance, other than those to be served by the Court.
- d) Summons is valid for 12 months from the date of issue and may be sought from the Court upon expiry. For cases certified urgent the summons to be signed simultaneously with the order.
- e) The period of extension of summons, if granted is marked on the Summons with an official Stamp.
- f) Service of Summons is effected by licensed Court Process Servers.
- g) Summons sent for service outside the jurisdiction of the Court are forwarded to the nearest

Court for Service.

- h) Affidavit of Service of Summons is filed after Service has been effected.
- i) Service of Summons abroad is effected by the Court through the Ministry of Foreign Affairs.
- j) Service of foreign legal process in Kenya is done by Court Process Servers. No Court fees are charged in respect of this service.
- k) A register of all Service of Summons is maintained in the Registry.

### 5.2.3 Miscellaneous Civil Applications

- a) The following matters are filed as Miscellaneous Applications:
  - Taxation.
  - Registration of foreign judgments and Arbitration Awards.
  - Registration of Applications for pauperism. They are accompanied by particulars of pleadings, statement of inability to pay Court fees, duly signed pleadings and statement, and assessed Court fees payable.
  - Application for leave to appeal out of time.
  - Application for transfer of cases from magistrates Courts.
  - Applications for presumption of death.
- b) Application is made by way of Notice of Motion.
- c) Fees is assessed, paid and receipt issued.
- d) A miscellaneous application file is opened.
- e) A date is fixed for hearing.
- f) Taxation notices are prepared by the applicants and submitted for signature by the Deputy Registrar or Registry Supervisor.
- g) Service of the Notices of Taxation is effected through the advocates offices and affidavit of service is filed in Court.
- h) A miscellaneous applications register contains the same details as those appearing in a Register of Civil Suits except that parties are registered as Applicants against Respondents.

#### 5.2.3.1 Requirements

- a) Application (notice of motion)
- b) Affidavit in support of the application
- c) Annexures, if any
- d) Submissions (in instances where there is no subsisting suit in court)
- e) Particulars of Pleadings, duly signed pleadings, statement of inability to pay Court fees and assessed Court fees payable in case of pauper Applications
- f) Certified copies of foreign judgment and original arbitration award

### 5.2.4 Entry of Judgments

- a) Requests for ex-parte judgments are made where memorandum to enter appearance and defense have not been filed within the prescribed time.

- b) File is retrieved, Court fees paid and file marked to Deputy Registrar for perusal and directions.
- c) Final or interlocutory judgment is entered by the Deputy Registrar depending on the reliefs sought in the plaint.
- d) Matter is set down for formal proof hearing upon entry of interlocutory judgment.
- e) A request for entry of Judgment is accompanied by an affidavit stating mode of service by the advocate's Court process server annexing a copy of license to serve.
- f) Attempts to file Memorandum of Appearance and or defense after directions to enter Judgment or entry of judgment are placed before the Deputy Registrar for directions.
- g) All requests for judgment and entry of judgment shall be serialized. Where the defendant is the Government, a formal application for leave to enter judgment against the Government must be made.

### **5.2.5 Procedure for extraction of Decrees and Orders**

- a) Draft decree/order is presented to the Liaison Desk.
- b) Court fees is assessed and paid.
- c) Decrees and orders are rectified as may be necessary.
- d) Decrees and orders are forwarded for execution and certification by the Deputy Registrar upon approval by other parties as may be necessary.
- e) Decrees/orders are dispatched to the applicants through the Liaison Desk.

#### **5.2.5.1 Requirements**

- a) Request for issuance of Decree/Order
- b) Draft Decree/Order
- c) Approval of Decree/Order by the other party in case of Inter party matters.
- d) Plaint/originating summons/petitions/notice of motion
- e) Reliefs sought
- f) Conformity of Decree/Order with the Judgment

### **5.2.6 Execution of Decrees**

The modes of executing a decree include:

- a) Warrant of attachment and sale of judgment/debtor's property.
- b) Attachment of 1/3 (one third) salary
- c) Warrant of arrest and commitment to civil jail
- d) Eviction order
- e) Garnishee proceedings
- f) Prohibitory orders
  - 1. Before an execution is commenced, the execution section will confirm the following;
    - That there is a settled suit.

- That there is no stay of execution order in force.
  - That a ten day notice of entry of judgment has been served on the judgment debtor in the cases where judgment had been entered in default of appearance.
  - That the requisite Court fees for the mode of execution preferred by the applicant is paid.
  - That the decree is more than one year old in which event a Notice to show cause is issued.
  - That the decree / order is drawn and signed.
  - That there is a copy of signed Judgment / Ruling from the Court.
  - That the auctioneer allocated warrants is a licensed auctioneer and whether she/he has the jurisdiction to execute.
2. After verification of the above, the Court Registry Assistant will calculate the sum of money to be executed which comprises the decretal amount (as per the judgment of the Court), taxed costs, interest, further costs and Court collection fees.
  3. The prepared warrants will then be presented to the Deputy Registrar for signature.
  4. Warrants for execution of decrees are served by a Court bailiff. The service and execution of the warrants are entered in a Court bailiff's register marked in Appendix A as Annexure 9.

#### 5.2.6.1 Requirements

- a) Application for execution of decree/Order.
- b) Conformity of decree/Order with Judgment of Court.
- c) Name of party applying for the execution.
- d) Preferred mode of execution.
- e) Auctioneers allocated the execution of the decree/Order.
- f) Party against whom the Execution is to be effected upon.
- g) Signature of the party applying for execution.
- h) Date of decree/Order.
- i) The Decretal amount, Cost, interests, further costs, Court collection fee and sum of decretal amount paid if any.

#### 5.2.6.2 Orders against the Government

- a) A request for issuance of an order against the Government is received and the requisite Court fees is paid as assessed.
- b) Court fees, parties, decree, certificate of costs, judgments and calculation of the sum due to the decree holder inclusive of costs are confirmed.
- c) Certificate of costs against the Government is certified and signed by a Deputy Registrar and dispatched to the Advocates for service upon the Attorney General for settlement.
- d) No Court fees is paid by the Attorney General for execution of decrees or orders where the

Government is the decree holder.

Execution of decrees from other Courts are received and processed as if they were issued by the receiving Court.

#### **5.2.6.2.1 Requirements**

- a) A copy of the decree/Order
- b) Certificate of execution of decrees transferred to another country is prepared in the form appearing in Appendix B as Annexure 20.

#### **5.2.7 Costs**

- a) Party and party Bill of Costs are filed in the main suit.
- b) An application is made by a letter requesting approval of costs by the Court.
- c) Court fees is paid for the request.
- d) Costs as drawn by the party are verified and counter-checked, by the Deputy Registrar, from the Advocates Remuneration Order applicable to ascertain they are drawn up to scale.
- e) A schedule and certificate of costs of the amount payable are certified by the Deputy Registrar.
- f) The certificates of costs are dispatched to the advocates/parties once certification has been done.

#### **5.2.7.1 Requirements**

- a) Letter from the Applicant signed and dated.
- b) Itemized Costs.
- c) Draft Certificate of Costs.

#### **5.2.8 Taxation**

- a) Advocate – client Bill of Costs are filed and registered as Miscellaneous Applications.
- b) Court Fees is assessed.
- c) The applicant requests for the parent file to be availed prior to taking a taxation date.
- d) A date is taken for taxation before the Deputy Registrar.
- e) Certificate of taxation is issued and signed by the Deputy Registrar.
- f) Clients collect signed and or amended Certificates after one day.

#### **5.2.8.1 Requirements**

- a) Notice of Taxation.
- b) Draft certificate of Taxation.
- c) Taxed Costs.
- d) Taxing master's name and designation.
- e) Supporting documents for non-contentious matters.

## 5.2.9 Certificate for enforcement of Foreign Judgment

- Application to enforce Foreign Judgment under Section 167 of the Foreign Judgment (Reciprocal Enforcement) Act Cap 43 Laws of Kenya is received and registered as a Miscellaneous Civil Application, and the requisite Court fees paid.

### 5.2.9.1 Requirement

- Application to enforce foreign judgment.

## 5.3 APPEALS IN CIVIL/FAMILY/COMMERCIAL & INCOME TAX/ ENVIRONMENT & LAND CASES

Appeals in the above matters are guided by Order 42 of the Civil Procedure Act Cap 21 Laws of Kenya. The Civil Appeals Registry receives and registers appeals from the decisions of magistrate's Courts, tribunals that is, the Business Premises, Rent Tribunal, Rent Restriction Tribunal, Cooperative Tribunal, National Environment Tribunal etc. Registrar of Trade Marks, Societies like Law Society of Kenya and the Auctioneers Licensing Boards' decisions etc.

### 5.3.1 Requirements

- Memorandum of Appeal.
- Certified order for extension of time if appeal is filed out of time.
- Certified copies of proceedings, judgment/ruling/order from the magistrates Court/Tribunal etc. as the case may be.
- All pleadings in lower court files.
- List of exhibits.
- List of witnesses.
- All documentary exhibits produced during the conduct of the suit.
- The original lower court/ tribunal record of proceedings.

#### 5.3.1.1 Registration

- Memorandum of appeal is received.
- Documents are verified.
- Court fees is assessed.
- The Appeal is registered and a file is opened.
- The original lower Court record is requested for.
- The file is placed before the Deputy Registrar for certification of completeness of the record.
- The original record and High Court files are merged and placed before the Judge for admission/rejection.
- In the event that the appeal is admitted or rejected parties are notified in writing.
- Appeals from Business Premises Rent Tribunal are forwarded to the Hon. The Chief Justice for appointment of a bench.



- j) Decrees and certificates of cost are prepared after judgment.
- k) The lower Court record is returned together with two certified copies of the judgment.

### 5.3.2 Admission/Rejection of Appeals

- a) The Appeal file, together with the lower Court Record, is placed before a Judge for Admission and or rejection.
- b) A certificate marked Appendix B as Annexure 21 is issued by the Deputy Registrar for forwarding the file to the Judge for Admission and or rejection.
- c) The file is forwarded to the Judge by filling in the form provided in Appendix B as Annexure 22.
- d) The Judge may give a date for directions if Appeal is admitted to hearing
- e) Appeals from Business Tribunals and Arbitration Awards are presided over by two or more Judges as may be directed by the Chief Justice.
- f) Notices for directions as to the hearing of the Appeal are issued in form Appendix B as Annexure 23.
- g) Direction notices are served to the parties by a process server who files an affidavit of service as proof of service to the parties.
- h) Upon granting of directions, the appeal is ready for hearing.
- i) On conclusion of Appeal, the lower Court record is returned together with two certified Copies of the Judgment/ruling/order/decree for execution.
- j) One copy of the judgment/ruling/order/decree is for the attention of the trial's magistrate.

## 5.4 COMMERCIAL CASES

These are cases arising from company matters and applications including winding- up causes, bankruptcy matters, and arbitration other than enforcement of awards, intellectual property matters, and claims for the recovery of unsecured debts due to banks or other financial institutions.

Also included are matters arising out of the ordinary transactions of merchants and traders or any cause relating to the construction of a mercantile document, the export or import of merchandise in freight, insurance, banking mercantile agency and mercantile usage.

The processes in Commercial Matters are governed by the Civil Procedure Act, Cap 21 Laws of Kenya, the Company's Act, The Bankruptcy Act Cap 53 and rules thereof. The processes and procedures are similar to those enumerated under Chapter 5.2 herein above save for the following matters;

### 5.4.1 Winding Up Causes- procedure

- a) Winding Up petition is presented for filing.
- b) Court fees is assessed and paid.
- c) The Petition is registered in a Winding-Up cause register.
- d) A Mention date is fixed for compliance before the Deputy Registrar and a hearing date is fixed simultaneously.
- e) Winding up petition is signed by the DR, sealed with the seal of the Court and dispatched to the Creditor for service.

- f) Once the Petition has been heard, a winding-up order is prepared.

#### **5.4.1.1 Requirements**

- a) Details on whom the Petition is intended to be served upon.
- b) A Verifying Affidavit.
- c) Original Deposit receipt for filing winding up petition (from the Official receiver).
- d) Certified copy of certificate of incorporation of a company.
- e) Affidavit of Service of petition upon the company sought to be wound up.
- f) Gazzettment of the Petition in the official Kenya gazette.
- g) Advertisement of the Petition in any of the newspapers with the hearing date thereof to be confirmed at the mention date.
- h) Authority/Consent to sue when required by the law (representative suit).

#### **5.4.2 Bankruptcy Causes- Procedure for filing**

- a) A Petition to declare a debtor bankrupt is presented for filing.
- b) Court fees is assessed and paid.
- c) Bankruptcy cause is registered in a bankruptcy cause Register.
- d) A mention date is taken at the counter.
- e) The matter is listed before a Judge for hearing.
- f) A receiving order is either issued or declined.
- g) A date for public examination of the Debtor is fixed.

#### **5.4.2. Requirements**

- a) The Debtor's petition.
- b) A declaration of inability to pay debts.
- c) A certificate of compliance duly signed by the Official Receiver or an Officer duly authorized by him.
- d) A verifying affidavit.
- e) A statement of affairs containing list A-L of debtor's indebtedness to creditors.
- f) Debtors' original deposit receipt from the Official Receiver for filing petition.
- g) Other Annexures the petitioner considers necessary.

#### **5.4.3 Bankruptcy Notices- Procedure for filing**

- a) A Bankruptcy Notice to judgment Debtor is presented for filing.
- b) Fees is assessed and paid.
- c) Notice is registered in a Bankruptcy Notice Register.
- d) Notice is presented before a Deputy Registrar for signature.
- e) Notice is sealed and dispatched to Judgment Creditor for service.#

**5.4.3.1 Requirements**

- a) Bankruptcy Notice.
- b) A copy of final judgment against the debtor.
- c) Decree/Order issued by the Court.
- d) Certificate of Costs/ Taxation.
- e) Statement of Accounts.
- f) Place of abode and address of the Judgment debtor for the past 6 Months.
- g) A statement that the judgment of the Court has not been stayed.
- h) Name of the Advocate for the Judgment Creditors.
- i) Endorsement/Penal Notice duly signed by advocate or creditor.
- j) Annexures such as certified copy of order or decree.

The forms used for various actions in processing Bankruptcy Notices are found in the Schedule to the Act. They include;

FORM No. 4 – Request for issue of Bankruptcy Notice

FORM No. 5 – Bankruptcy Notice

FORM NO. 6 – Affidavit of Service of Bankruptcy Notice

FORM. No. 7 - Affidavit of Application to set aside Bankruptcy Notice

FORM No. 8 – Orders setting Aside Bankruptcy Notice

**5.4.4 Arbitration Awards- Procedure**

- a) Arbitration award is presented for filing within 14 days of the award.
- b) Fees is assessed and paid.
- c) The Arbitration is registered as a miscellaneous application.
- d) Notification of filing of the award to parties within 14 days of filing of the award.
- e) Date is fixed for reading of the arbitrator's award.
- f) Parties are notified of the date and time for reading the award.
- g) The Award is read and adopted as a judgment of the Court within 30 days of the notice by the Registrar.

**5.4.4.1 Requirements**

- a) Letter forwarding arbitration award for filing in Court.
- b) Arbitral award duly signed by the arbitrator.
- c) Any depositions and documents produced and proven.

**5.4.5 Admiralty Cases**

Admiralty matters are all matters arising from the High seas or in territorial waters or upon any lake

or any navigable inland waters in Kenya.

The Rules governing the filing of Admiralty matters are found in the Supreme Court Rules of England. Admiralty matters are filed and heard at any time when the need arises (day, night, weekdays, weekends, public holidays etc.) and at any place because of the urgency involved.

#### **5.4.5.1 Requirements**

- a) Claim form (comprising particulars e.g. the nature of the claim, period of time, monthly wages etc.)
- b) Declaration/Affidavit
- c) Warrant of arrest
- d) The Claim form and warrant of arrest must be sealed before service

##### **5.4.5.1.1 Registration procedure**

- a) An Application and undertaking for arrest is filed by way of Certificate of Urgency.
- b) Court fees is assessed and paid.
- c) A file is opened.
- d) The file is taken before the DR to ascertain if there is a caution.

#### **5.4.5.2 Hearing and Execution**

- a) Once the matter is heard and orders issued, service is effected by the court bailiff. The bailiff executes the warrant of arrest by serving it to the Port police or the harbor master.
- b) The bailiff serves the captain or the highest ranking officer on board the vessel and makes sure that a copy of the warrant is attached on the wheel house (cabin).
- c) In the event that the claimant's advocate files consent for release of the vessel, and the same is adopted by court, it has to be accompanied by an order issued and signed by a Judge for the vessel in question to be released.
- d) The execution of Admiralty Decisions are overseen by an Admiralty Marshal (a Registrar, a Deputy Registrar or a Magistrate) appointed by the Chief Justice.
- e) When there is a sale of the vessel, Admiralty Marshal receives bids from potential buyer, opens the bids in open Court with the bid being awarded to the highest bidder.
- f) Monies received from the sale of the vessel are deposited in an account in the name of the claimant advocate and the Admiralty Marshal until such a time the money is released to the claimant.

A Judge is the only judicial officer mandated to hear admiralty matters and also sign orders and warrants of arrests in admiralty matters.

## **5.5 ENVIRONMENT AND LAND CASES**

The processes in Environment and Land matters are governed by the Environment and Land Court Act No. 12 of 2012 and rules thereof or any other law applicable in Kenya relating to environment and land.

Environment and Land Cases are matters that involve disputes arising from: -

- a) Environment planning and protection, climate issues, land use planning, title, tenure, boundaries, rates, rents, valuations, mining minerals and other natural resources;

- b) Compulsory acquisition of land;
- c) Land administration and management;
- d) Public, private and community land and contracts, choses in action or other instruments granting any enforceable interest in land; and
- e) Any other dispute relating to environment and land.
- f) The Environment and Land Court also has powers to determine applications for redress of or denial, violation or infringement of or threat to, rights or fundamental freedom relating to a clean and healthy environment under Article 42, 69 and 70 of the Constitution.
- g) The court too is the appellate court over the decisions of magistrates courts and the National Environment Tribunal in respect of matters falling within the jurisdiction of the Court. The processes and procedures in the Environment and Land Court registry are similar to those referred to in Chapter 5.2 herein above other than for the following processes;

### **5.5.1 Transfer of Land**

- a) An application for transfer of land is made.
- b) Court fees is assessed and paid.
- c) A date for hearing is fixed.
- d) Orders are issued.
- e) Orders are extracted by the Court Assistant, signed and sealed in two (2) hours.

#### **5.5.1.1 Requirements**

- a) Search certificate.
- b) Consent form.
- c) Mutation form in case of subdivision, adverse possession and or inheritance.
- d) Transfer of land forms.
- e) Confirmation of transferee's identification.
- f) Passport size photo affixed to the form.
- g) Lease transfer forms.
- h) Partition form.

In cases of contract for the disposition of an interest in land:

- i) The contract should be in writing and signed by the parties thereto.
- ii) Proof of attestation.
- iii) Proof of spousal consent where applicable.

### **5.5.2 Vesting Orders**

- a) An application by way of Notice of Motion is presented.
- b) Court Fees is assessed and paid.
- c) A hearing date is fixed at the Registry.

- d) The file is forwarded to the Judge for appropriate Orders.

#### 5.5.2.1 Requirements

Official Land Search Certificate.

#### 5.5.3 Sale of immovable Properties- Procedure

- a) Request letter for a date for settlement terms and conditions of sale is filed.
- b) Decree and certificate of costs is verified.
- c) Decretal sum is calculated.
- d) Parties are notified of the date issued for settling the terms and conditions of sale of property.
- e) The Notices of settling terms and conditions of sale are dispatched to the parties for service.

### 5.6 CONSTITUTIONAL AND HUMAN RIGHTS CASES

These are cases related to denial, violation, infringement, or threat of Human Rights or fundamental freedoms under the Provision of the Constitution of Kenya 2010.

The Constitutional and Human Rights Court can grant the following orders: Conservatory Orders, Declaratory Orders, An Injunction, Compelling Orders, Compensation Orders, interpretation, enforcement and directives.

#### 5.6.1 Requirements

- a) Petition.
- b) Verifying Affidavit.
- c) Certificate of Urgency if matter is urgent.
- d) Annexures of supporting documents.

Informal documentation including applications for waiver of court fees as envisaged in Article 23 of the Constitution may be entertained by the Court. Applications for waiver of court fees will be made to the Deputy Registrar.

##### 5.6.1.1 Registration

- a) Constitutional Petition is presented at the Registration counter.
- b) Court fees is assessed and paid.
- c) Petition is registered in the register and case management system.
- d) The file is placed before a Judge if filed under a Certificate of Urgency.
- e) Otherwise, a mention date is fixed at the Registry.
- f) A hearing date of the petition is fixed by the Judge.

For matters that require to be heard by more than one Judge, the following steps are followed;

- a) Orders are made by the Judge hearing the case referring the matter to the Chief Justice for

empanelling the bench.

- b) Proceedings are typed showing the order referring the matter to the Chief Justice.
- c) The file is forwarded to the Chief Justice for constitution of a bench to hear the matter.
- d) The file is returned to the registry where a notice is issued to the Judges appointed informing them of the appointment.
- e) File is given a date before the presiding Judge to give directions and fix a hearing date.
- f) A copy of the said file is produced for each Judge appointed.

## **5.7 JUDICIAL REVIEW CASES**

These are matters brought by way of applications seeking orders of mandamus, prohibition or certiorari for stay of proceedings, removal of any judgment, order, Decree, conviction or other proceedings for the purposes of being quashed.

### **5.7.1 Requirements**

- a) Chamber Summons for leave to file Judicial Review.
- b) Substantive Notice of Motion.
- c) Supporting Affidavits.
- d) Copies of statements of facts.

#### **5.7.1.1 Registration**

- a) An ex-parte Application for leave to file Judicial Review Proceedings is presented.
- b) Court Fees is assessed and paid.
- c) Application for leave is registered.
- d) Once leave is granted for an order of Judicial Review, an application is filed within 21 days by Notice of Motion.
- e) Fees for the Judicial Review (JR) Application is assessed and paid.
- f) The JR Application retains the number of the Application for leave.

### **5.7.2 Hearing Date**

- a) A mention date is fixed or matter is placed before the Judge if brought under Certificate of Urgency.
- b) The hearing date of the main motion is fixed by the Court.
- c) Cases may be referred to the Chief Justice for constitution of a bench to hear the matter.

## **5.8 FAMILY MATTERS**

The Family Court handles the following matters;

- a) Probate and Administration matters governed by the Law of Succession Act CAP 160 of the Laws of Kenya and the practice directions issued by the court.
- b) Adoption cases and children related matters under the Children Act No. 8 of 2001;
- c) Divorce matters under the Marriage Act, Cap 150;

- d) Disputes relating to matrimonial property under the Matrimonial Causes Act and the Married Women Property Act of 1882 of England;
- e) Appeals from the Children Court and the divorce related matters from the magistrate's courts;
- f) Miscellaneous applications.

### 5.8.1 Probate and Administration

These are succession matters involving the estates of deceased persons.

Probate and Administration matters are filed as either:

- a) Intestate (where there is no will left),
- b) Testate (where there is a will),
- c) De Bonis Non for un-administered assets.
- d) Resealing of Grants of letters of Administration/Probate issued in other jurisdictions.
- e) Grants Ad litem limited to the purpose of filing a civil suit,
- f) Grant Ad Colligenda Bona limited to the purpose of preservation of the estate of the deceased until further representation is granted and Special Limited grants for certain specific special purposes.
- g) Grant Pendente Lite limited to pending suits in respect of the deceased's estate;

### 5.8.2 Grants issued and Forms used

- The forms are available at the Court registry and can also be downloaded online from the judiciary website: [www.judiciary.go.ke](http://www.judiciary.go.ke)

- i) Grant of Letters of Administration Intestate –Forms:-
  - o P&A 80 – Petition for Letters of Administration Intestate
  - o P&A 5 – Affidavit in Support of Petition for Letters of Administration Intestate
  - o P&A12 – Affidavit of Justification of proposed Administrator
  - o P&A11 – Affidavit of Justification of proposed Sureties
  - o P&A 57- Guarantee by Personal Sureties; and
  - o P&A 38 – Consent to making a grant.

Where the widow is applying alone, she is exempted from availing a surety; exempted from filing Form 57 and 11). Form 38 is only applicable when there are adult beneficiaries.

- ii) Grant of Letters of Administration with written will annexed. Form 80, 5, 12, 11, 57, and 38.
- iii) Grant of Probate Testate (written will) - Form 79 and affidavit.
- iv) Grant of Probate Testate (oral will) - Form 78 and affidavit.
- v) Grant De bonis Non( with will) – form 87 and affidavit
- vi) Grant De bonis Non ( without will) - form 86 and affidavit
- vii) Resealing - form 81 and affidavit.
- viii) Grant of Letters of Administration Ad Litem - form 90B and affidavit.



- ix) Grant of Letters of Administration Ad colligenda bona- form 85 and affidavit.
- x) Grant of Letters of Administration Pendente lite- form 90 and affidavit.
- xi) Special limited Grant - form 85A and affidavit.

#### 5.8.2.1 Requirements

- a) Petition in the appropriate form.
- b) Certificate of death (certified copy).
- c) Affidavit in support of the Petition duly executed.
- d) Letter from the chief or any authority confirming the Beneficiaries of the deceased estate.
- e) Guarantors/sureties (where necessary).
- f) Banking slips for advertisement in the special issue of the Kenya Gazette (for full Grants).
- g) Evidence of ownership of assets (copies of title documents).
- h) Consent from adult beneficiaries not applying in cases of intestate succession.
- i) More than One (1) Petitioner to apply in the event that the estate comprises of minors.
- j) Original Will and two (2) copies in matters of testate succession.
- k) Certified true copy of grant for resealing of grant.
- l) Contact details: physical address, E-mail, telephone number and postal address.

##### 5.8.2.1.1 Registration

- a) Presentation of enquiries or intention by the client at the counter.
- b) Checklist is provided together with the forms.
- c) Presentation of completed forms at the registration counter.
- d) Verification by the Court Registry Assistant that all relevant documents have been availed in accordance to the check list.
- e) Assessment of court fees to be paid.
- f) Issuance of a serial number and a form to pay the court fees at the bank.
- g) Confirmation by the Accountant that filing fee has been deposited.
- h) Registration of the petition in the case registers and the case management system.
- i) Referral of file to the Deputy Registrar for action.
- j) Approval by the Deputy Registrar.
- k) Approved petitions for Grant Ad Litem are referred to the Court Administrative Assistant to type the grant; and place before the Judge for issuance and signature.
- l) The notices for approved petitions for full Grant and for resealing are referred to the Court Administrative Assistant for typing before dispatch to the Probate and Administration Desk for onward transmission to the Government printer.
- m) Matters which have not been approved are forwarded to the Liaison Desk for purposes of notifying the parties to make necessary amendments.
- n) At the expiry of 30 days after publication in the Kenya Gazette the files are retrieved if no objection has been filed. The files are then stamped with the 2nd minute indicating that

there is no objection and placed before Deputy Registrar.

- a) The Deputy Registrar approves for typing, the grants in which no objection has been noted.
- p) The files are placed before the Hon Judge for issuance of Grant and signature.
- q) Parties are notified to collect the grants by the Liaison Desk.

#### **5.8.2.2 District Registries**

In addition to the requirements indicated in 5.8.2.2.1 above, district registries are required to file an index card and Form 73 to be forwarded to the principal registry. The principal registry confirms that no other petition has been filed in respect of the deceased in Form 30. Form 30 is then forwarded to the district registry and filed in the file.

#### **5.8.3 Confirmation of Grant**

- a) Summons for confirmation forms are downloaded or obtained from the registry.
- b) Duly filled forms are presented for assessment.
- c) Application is assessed.
- d) After payment the application and the banking slip are received at the cash office.
- e) File is forwarded to the date's section for a hearing date to be fixed.
- f) All beneficiaries attend Court during hearing for confirmation.
- g) When orders for confirmation are granted, a certificate of confirmation is issued forthwith.

##### **5.8.3.1 Requirements**

- a) Summons for confirmation forms duly filled- (form 108 after expiry of six months and form 109 before expiry of six months).
- b) Affidavits in support.
- c) Consents of beneficiaries to confirmation.
- d) Consents to mode of distribution and to confirmation.

#### **5.8.4 Administration under the Mental Health Act**

- a) This relates to estates of persons with mental challenges.
- b) Orders may be issued allowing their family member(s) or any person showing sufficient interest to administer the estate of such a person until he/she recovers from the mental illness.

#### **5.8.5 Adoption Matters**

- a) These matters involve the Adoption of children by persons other than their biological parents including persons of foreign nationalities.
- b) They are heard in camera.

##### **5.8.5.1 Registration**

- a) Originating summons and the chambers summons are presented at the registration counter.
- b) Documents are verified for completeness.
- c) Court fees is assessed.

- d) A serial number is issued.
- e) Payments are made in the designated bank.
- f) The Originating summons and the bank slip are produced in the registry.
- g) The applicant's details and the child details are recorded in a register.
- h) A cause number is given and written on the documents.
- i) The documents are forwarded to the cash office.
- j) A payment receipt is issued and the document is left at the cash office.
- k) The files are recorded in a movement register and submitted to the new matters desk.
- l) Adoption society's report is filed to declare the child free for adoption.
- m) File is forwarded to the Dates section for fixing of hearing dates.
- n) Notice of Motion is fixed for hearing before the Judge for appointment of guardian *Ad Litem*.
- o) The report from the Director of Children Services is filed.
- p) The Originating Summons is fixed for hearing.
- q) Orders are issued as appropriate.

### 5.8.6 Divorce

- a) These are matters related to matrimonial disputes.
- b) They include; Judicial Separation, divorce, custody of issues of marriage, alimony and maintenance, and division of matrimonial property.
- c) They are filed as Petitions.

#### 5.8.6.1 Requirements

Requirements to be met before a person can file for divorce are:

- The divorce petition must be brought three years after celebration of marriage.
- Leave may be granted by the Court to file the divorce petition before the expiry of three years in exceptional cases.
  - a) Place and date of marriage.
  - b) The names and dates of birth of the child/children, if any.
  - c) The domiciles of the parties and their occupations.
  - d) Details of any related previous proceedings.
  - e) The matrimonial offences alleged and the particulars thereof.
  - f) The prayers sought.
  - g) Affidavit in support of petition.
  - h) Copy of certificate of marriage.
  - i) Notice to appear.
  - j) Contact details: physical address, E-mail, telephone number and postal address.

### 5.8.6.2 Registration

- a) Petition is received at the registration counter.
- b) Petition is verified in accordance to the checklist.
- c) Fees is assessed at the registration counter.
- d) A serial number is issued for payment of fees at the bank.
- e) The petition and the banking slip are received after deposit of the fees.
- f) A cause number is issued.
- g) A payment receipt is issued at the cash office.
- h) Folders are opened for the petition and entry made into the registers and case management system.
- i) The notices are forwarded to the Deputy Registrar for signature and returned by the Court Assistant to the Liaison desk for collection by the customers.
- j) Hearing dates are issued registrar's certificate.
- k) The matter is fixed for full hearing of the divorce cause.
- l) *Decree nisi* is issued by the Court.
- m) *Decree Absolute* is issued after the expiry of the stated period following issuance of decree *nisi*.

### 5.8.8 Matrimonial Property Causes

#### 5.8.8.1 Registration

- a) The Originating Summons(OS) is presented at the registration counter
- b) The application is verified for completeness
- c) A serial number is issued.
- d) Payment is made at the bank.
- e) The OS with the bank slip received and the details of the petitioner and respondent are recorded in the register and the case management system.
- f) A cause number is given.
- g) The document is taken to the cash office for the issuance of the filing fees receipt.
- h) The OS is returned to the registration counter for opening of the file cover.
- i) The matter is fixed for directions.
- j) Service is effected within 14 days.
- k) 14 days are allowed to enter appearance.
- l) Directions are given on the mode of hearing.

### 5.8.9 Miscellaneous Applications

These are applications that include orders made in other countries being adopted as orders of the Court, matters that require appointment of guardian under the Mental Health Act, taxation etc.

#### 5.8.9.1 Registration

- a) Application is received at the counter.

- b) Assessment of the application is done.
- c) A serial number is issued.
- d) Payment is made in the bank.
- e) The application is brought with the payment receipt at the registry.
- f) The details of the applicants are recorded in the diary and a cause number given.
- g) Filing fees receipt is issued at the cash office.
- h) The application is fixed for hearing.
- i) Orders are issued as appropriate.

## 5.9 CHILDREN MATTERS

These are matters that relate to parental responsibility, fostering, custody, maintenance, guardianship, care and protection of children and children in conflict with the law. The processes are governed by the Children's Act, Chapter 586 of the Laws of Kenya and other relevant legal provisions.

The processes in children matters are the same as those in civil as well as criminal matters save that children matters are heard in camera.

### 5.9.1 Requirements

- a) Complaint or originating summons
- b) Verifying Affidavit
- c) Supporting Affidavit
- d) Proof of paternity
- e) List of witnesses
- f) Statement of witnesses
- g) Exhibits and or supporting documents.
- h) Application (notice of motion)

#### 5.9.1.1 Registration

- a) Complaint/ Certificates of Urgency are presented at the registration counter.
- b) Court fees is paid and assessed.
- c) Parties are given a hearing date by the Dates section.

### 5.9.2 Requirements in cases of Children in conflict with the law

- a) The arresting officer presents the child at the court.
- b) A charge sheet is presented by the arresting officer.
- c) The receiving officer interviews the child and notifies the parents/ guardians of the child by way of phone.
- d) The child is presented to court which should be cleared of all adults save for parents, children officer and prosecution.
- e) If the court orders an age assessment report, the Court Assistant ensures that the order is extracted and handed over to the Children's Officer for execution.
- f) The Court Assistant prepares a remand warrant for children remand home, not an adult

prison.

- g) The Court Assistant ensures that orders made by the court for Children Officers' reports are extracted without undue delay.
- h) The police ensures that witness statements are availed at the point at which the child is presented to court.

### **5.9.3 Children in need of care and protection**

- a) The child in need of care and protection is presented to court on the basis of a children officers' report or application to court by interested party.
- b) If the child has been presented by the children's officer a Protection and Care File is immediately be opened. If the child has been presented by any other concerned party, a file is opened and the children's officer notified.
- c) The child is presented to Court for directions. The Court carries out preliminary investigations and gives directions on the custody of the child while the matter is in Court.

### **5.9.4 Special Protection Measures For Children**

- a) The Children Court sits in different rooms and times from other courts.
- b) Officers handling children are allowed to depart from strict rules of procedure governing other courts.
- c) The Court should be cleared when children matters are being heard.
- d) The best interest of the child is the paramount consideration.

## **5.10 INDUSTRIAL COURT CASES**

The cases handled in this court are governed by the Industrial Court Act No. 20 of 2011 and the rules thereto. Execution of court decisions is enforced under the provisions of Civil Procedure rules.

The matters handled relate to employment and labour relations under the Labour Relations Act, Employment Act, Labour Institutions Act, Occupational Health Act etc.

### **5.10.1 Requirements**

- a) Summons.
- b) Supporting/Verifying Affidavit.
- c) Statements of witnesses.
- d) Description of pleadings, memorandum of claim, petitions and or Judicial Review.
- e) Supporting documents and or exhibits properly marked.

#### **5.10.1.1 Registration**

- a) Memorandum of Claim/Statement of Claim is presented for filing.
- b) Assessment and payment of Court fees.
- c) Case is registered and allocated a Cause Number.
- d) Unrepresented litigants make a request to the Court for service of the processes through the Court. The request is made in form marked in Appendix B as Annexure 24.

- e) An affidavit of service is filed after service of summons as in form appearing in Appendix B as Annexure 25 which may be varied as may be necessary.
- f) The Industrial Court disputes register is the same as the civil case register (Appendix A as Annexure 1) save for the names of parties who are referred to as the claimants against respondents.

### **5.10.2 Appeals**

Appeals are received from the Magistrates' Courts and registrar of trade union.

#### **5.10.2.1 Requirements**

- a) Notice of Appeal.
- b) Decision of the Minister and or Registrar of Trade Unions.

#### **5.10.2.2 Registration**

- a) Presentation of the Appeal.
- b) Assessment and payment of Court fees.
- c) Preparation of notice of Appeal.
- d) The Appeal is registered. The process of appeals is the same as those in civil processes.

### **5.10.3 Requirements for Collective Bargaining Agreements**

- a) A CBA duly signed by all the parties.
- b) Analysis of the CBA by Central Planning and Monitoring Unit (CPMU) of the Ministry of Labour.
- c) Schedule of membership of union.
- d) Conformity of the CBA with the relevant labour laws and wage guidelines issued by the Ministry of Finance.
- e) Schedule of Collective Agreement between employers and Trade Unions.

#### **5.10.3.1 Registration**

- a) Duly signed agreement from the Cabinet Secretary responsible for labour issues is received the registry.
- b) An unregistered Collective Agreement number is allocated to the agreement.
- c) Parties are informed of registration.
- d) Agreement is placed before a Judge.
- e) If accepted for registration, it is allocated a Registered Collective Bargaining Agreement Number.
- f) The agreement is registered.
- g) A Registration Certificate is issued after Admission and Registration of CBA.

### **5.11 Election Petitions**

These are matters that deal with resolution of election disputes arising from County and Parliamentary elections for governors, senators and members of the National Assembly.

The processes in Election petitions are governed by the Elections Act No 24 of 2011 and the rules thereto.

**5.11.1 Requirements**

- a) Filing fees
- b) Supporting Affidavit
- c) Deposit for security for costs
- d) Witnesses' sworn affidavits.

**5.11.1.1 Registration**

- a) Presentation of the petition not later than 28 days from the publication of the election results in the Kenya Gazette.
- b) Acknowledgment of the delivery of the petition.
- c) Deposit of security for payment of costs by petitioner to the Registrar (within 10 days of filing).
- d) Service of the Petition (within 15 days of the presentation).
- e) Filing and serving a response. (Within 14 days of service of the Petition).
- f) Delivery of the results of the relevant election by the Commission to the Registrar (Within 14 days of service of the Petition).
- g) Setting a date for Pre-trial conference (7 days from receipt of last response).
- h) Issuing a notice on the time and place of the trial. (At least 7 days before the date fixed for hearing).
- i) Delivery of ballot boxes to the Registrar (At least 48 hours before date fixed for trial).
- j) Setting a hearing date. Hearing and determination of the petition should be done within 6 months of the lodging of the Petition.
- k) Appeals should be filed within 30 days from the decision of the Magistrate Court /High Court, and determined within 6 months from the date of lodging the Appeal.



**APPENDICES A****Annexure 1****CIVIL CASE REGISTER**

Case No.	Plaintiff, Advocate & Contact (Email, Postal & Mobile)	Defendant, Advocate& Contact (Email Postal & Mobile)	Nature Of Claim	Date Of Summons	Date Of Hearing	Fees Paid & Receipt No.	Remarks Judge/Date Decision Made

**Note:** Mark M or F to indicate the Gender of both the Plaintiff and the Defendant and N/A for Institutions or other bodies parties to suit.

## Annexure 2

**PROCESS SERVERS' REGISTER**

S/NO.	DATE	CASE NO.)	ADVS. FIRM & LOCATION	HG DATE	JUDGE	P/SERVER'S NAME	P. SERVER'S SIGN.	REMARKS

## Annexure 3

**EXHIBITS REGISTER**

S/NO.	CASE NO.	EXHIBIT NO	EXHIBIT TYPE (eg. Perishable/ non-perishable, documentary)	DATE EXHIBIT PRODUCED AND (Witness Name)	DISPOSAL ORDERS AND DATE MADE	EXHIBIT RE- TURNED TO/ COLLECTED BY (Name, ID & Date)	REMARKS

## Annexure 4

**INCOMING MAIL REGISTER**

DATE RECEIVED	FROM (SENDER)	SUBJECT	FILE REF/ CASE NO.	SIGNATURE	RECEIPT (In case of Postal Orders, cheques etc.)

## Annexure 5

**OUTGOING MAIL REGISTER**

DATE RECEIVED	FROM (SECTION)	SUBJECT	FILE REF/ CASE NO.	SIGNATURE	DATE DISPATCHED

## Annexure 6

**FILE RETRIEVAL REGISTER**

DATE FILE RETRIEVED	CASE NO.	OFFICER RETRIEVING	PERSON REQUESTING	PURPOSE OF RETRIEVAL	DATE FILE RETURNED	REMARKS

## Annexure 7

**FILE MOVEMENT REGISTER**

CASE NO.	NAME OF PERSON RECEIVING FILE	PJ. NO.	DATE RE-MOVED & PURPOSE	SIGN	DATE RETURNED	REMARKS

**Annexure 8****ACCESSION REGISTER**

CASE NO.	CREATING REGISTRY / COURT	NAME OF PERSON RECEIVING FILE	DATE RECEIVED	FINAL ORDERS & DATE IN FILE	DISPOSAL/ RETENTION PERIOD	REMARKS



Annexure 9

**COURT BAILIFF REGISTER**

S/NO	DATE	C/B'S NAME	C/B'S SIGN	COURT ISSUING	WARRANT/ ORDER REF.	CASE NO.	REMARKS

Annexure 9

**COURT BAILIFF REGISTER**

S/NO	DATE	C/B'S NAME	C/B'S SIGN	COURT ISSUING	WARRANT/ ORDER REF.	CASE NO.	REMARKS

**APPENDICES B****Annexure 1**

**REPUBLIC OF KENYA**  
**HIGH COURT OF KENYA AT .....**

**SERVICE REQUISITION FORM**

DATE SUBMITTED .....

TIME .....

CASE NO	PARTIES	KINDLY TICK AGAINST THE DESIRED SERVICE		CONTACTS		COMMENTS
				Email	Telephone	
		Fixing date				
		Filing pleadings				
		Certification				
		Proceedings				
		Decrees/Orders				
		Perusal				
		Deposit refund				
		Grants				
		Bail bond				
		Fees Assessment				
		Summons				
		Others, Please specify;				
		..... ..... ..... ..... ..... .....				

NAME OF APPLICANT.....

ID NUMBER.....

SERVED BY.....

APPLICANT RETURN DATE.....

**Form to be used for service in only one case file**

## Annexure 2

**REPUBLIC OF KENYA**  
**CUSTOMER CARE FORM AT..... COURT**

**FEED BACK FORM/ FOMU YA MAJIBU**

Date / Tarehe.....

6 Were you satisfied with our services?

Je umeridhika na huduma zetu?

Yes/Ndio

No/Hapana

If no, give reasons

Kama sivyo, eleza sababu

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

7 Were you served timely?

Je, ulihudumiwa kwa muda unao faa?

Yes/Ndio

No/Hapana

If not, for how long were you delayed?

Kama sivyo, kwa muda upi?

.....  
 .....

8 Give your recommendations on how we can improve our service delivery.

Toa maoni yako jinsi tunavyo weza kuboresha huduma zetu.

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

**Annexure 3**

**REPUBLIC OF KENYA**  
**CUSTOMER CARE FORM AT..... COURT**  
**INQUIRY FORM**

Date..... Time in..... Tim out.....

Name.....

Contacts email and telephone.....

Purpose of visit.....

Depart ment.....

Floor.....

Checked by.....

Signature.....

Annexure 4

REPUBLIC OF KENYA

CUSTOMER CARE FORM AT.....COURT

REQUEST FORM

Date..... Time in..... Time out.....

Name.....

Contact email and telephone.....

Case no..... Parties.....

Reason of visit.....

Department.....

Floor .....

Remark/Follow up.....

.....

.....

Checked by..... Signature.....

**Annexure 5****REPUBLIC OF KENYA****IN THE HIGH COURT OF KENYA AT NAIROBI****CIVIL CASE NO.....OF.....**

..... PLAINTIFF

Versus

..... DEFENDANT

**COURT FEES CERTIFICATE**

Suit filed on.....

Names of Plaintiff's Advocates.....

Amount of Court fees assessed and paid Kshs.....

Court Fees Receipt No..... Dated.....

Appearance entered on ..... Court fees Receipt No..... Amount.....

Defence Filed on..... Court fees Receipt No..... Amount.....

Names of defendant's Advocate.....

Last Hearing date..... Date of Judgment.....

General Damages awarded KShs.....

Special Damages awarded KShs.....

Further Court Fees (after Judgment) Kshs.....

Further Court Fees Receipt No..... Dated.....

Under Collection detected KShs..... By whom payable.....

Fees on filing Plaintiff, Any other Fees, (FCF or CAF, etc.).....

Payment made on under collection Kshs..... Receipt No..... Dated.....

Decree/Order checked by..... Signature.....

Designation..... Date.....

Checked by..... (Decrees/Orders Clerk Signature..... Date.....	Certified by..... (Executive Officer/Court Fees Assessor) Signature.....	Approved/Not approved ..... Deputy Registrar Date.....
-------------------------------------------------------------------------	-----------------------------------------------------------------------------------	-----------------------------------------------------------------

**Note: Certificate to be prepared in all cases before Decrees and Orders are issued**

## WEEKLY COLLECTION CHECKLIST

**MONTH:**

**COLLECTION DATE**

Section Deployed.....

[illegible]

Collected By: ..... Counter checked by supervisor: .....



## Annexure 7

### MILIMANI LAW COURT -TYPING UNIT CONSOLIDATED INSPECTION CHECKLIST FOR 4 WEEKS

RETURNS FOR THE MONTH OF ..... 20/.....

No	Typist Name	PJ. No	No. of Pages				Total Pages	End of 4 Weeks	End of 4 Weeks
			WK 1	WK 2	WK 3	WK 4	End Month WK 1-4	No. of Files Typed	No. of Files Pending Typing
1.									
2.									
3.									
4.									
5.									
6.									
7.									

No. of Files Allocated ( **In general** ) for the month

Typist No: 1-  No: 2-  No: 3-  No: 4-  No: 5-  No: 6-  No: 7-

Total No. of files allocated (**in general**) in the month of march =

**KEY: 1. (Wk)** - Refers to week **2. Source of Consolidated Data** - ( Weekly typing inspection checklist - (wk 1 wk4) **3. T** - Total

COMMENTS
COURT'S ADMINITRATOR'S REMARK

**COPY TO:** 1. Judge  
2. Deputy registrar  
3. Court Administrator

**Prepared by:** .....

**Signature:** .....

**Annexure 8**

**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
CRIMINAL DIVISION  
(APPELLATE JURISDICTION)**

MISC. CRIMINAL APPLICATION NO..... OF .....

(from Original Criminal case No. .... of ..... of the ..... Magistrate Court at.....)

.....APPLICANT

VERSUS

REPUBLIC..... RESPONDENT

**PARTICULARS OF SURETY**

NAME .....

ID CARD/PASSPORT/ D.LICENCE NO.....

DISTRICT.....

LOCATION.....

(NAME &CONTACT OF CHIEF).....

SUB-LOCATION.....

(NAME &CONTACT OF ASSISTANT CHIEF).....

PLACE OF RESIDENCE.....

STREET/NEAREST LANDMARK/ INSTITUTION.....

CONTACT ADDRESS.....

TELEPHONE.....

RELATIONSHIP WITH THE APPLICANT.....

OCCUPATION.....

SOURCES OF INCOME..... SALARY.....

RENT.....

FARM.....

BUSINESS.....

TOTAL.....

AMOUNT OF BOND(KSH).....

SECURITY DEPOSITED IN COURT.....

VALUE OF SECURITY DEPOSITED (KSH).....

**SURETY:** I understand that if the said applicant fails to appear in court as and when required may be called

upon to pay the court the sum of Ksh..... SURETY SIGNATURE.....

Prepared by.....

**COURT ASSISTANT**

CHECKED BY.....

**EXECUTIVE OFFICER**

SURETY APPROVED/NOT APPROVED.....

**SENIOR DEPUTY REGISTRAR**

DATED AT NAIROBI THIS.....DAY OF .....2008

Annexure 9



REPUBLIC OF KENYA

## THE JUDICIARY

## BOND AND BAIL BOND

## CRIMINAL 95

IN THE.....COURT

AT.....

I....., of.....

being charged with the offence (s) of.....

.....and

after inquiry required to appeal before the Judge/Magistrate at.....

and after inquiry called upon to enter into my own recognizance to appear when required hereby bind myself

to appear in the.....Court at.....O'clock in the fore/

afternoon on the..... day of 20.....or whenever required and so to continue

to attend until otherwise directed by the Court, to answer further to the said charge, and in case of my making

default herein, I bind myself to the forfeit the sum of Shs.....

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

Witness.....

Signature.....

I....., of.....do hereby declare

myself surety for the above mentioned.....

that he shall attend at.....at.....on the.....

day of..... 20.....

(or on such day as he may hereafter be required to attend) further to answer to the charge pending against him, and in case of his making default herein, I hereby bind myself to forfeit the sum of Shillings

.....

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

.....Witness to Signature (s)

Signature .....

JKF-4/00

## Annexure 10



REPUBLIC OF KENYA

**RELEASE ORDER WHERE  
SURETY HAS SIGNED BOND**
**THE JUDICIARY**
**CRIMINAL 137**

IN THE ..... COURT AT .....  
CRIMINAL CASE NO. .... OF 20 .....

REPUBLIC ..... PROSECUTOR

VERSUS

..... ACCUSED

**TO: THE OFFICER IN CHARGE**  
**REMAND HOME,**

.....

**IN ACCORDANCE** with the order endorsed on the above file and the remand warrant which is in your possession, the above named accused ..... may be released on signing the attached copies of the bond.

The surety has/sureties have signed the bond.

**NOW THEREFORE YOU ARE REQUIRED** to release the said accused on signing the attached bond and inform him to attend this court on ..... day of ..... 20 ..... at ..... a.m/pm

**GIVEN** under my hand and the Seal of the Court at .....  
this ..... day of ..... 20 .....

.....

Magistrate

NOTE: Please return the remand warrant together with the bond to this court.

-----

JKF-4/00

## Annexure 11



REPUBLIC OF KENYA

## THE JUDICIARY

**RELEASE ORDER WHERE  
CASH BAIL HAS BEEN PAID**
**CRIMINAL 138**

IN THE..... COURT AT.....

CRIMINAL CASE NO..... OF.....

REPUBLIC.....PROSECUTOR

VERSUS

.....ACCUSED

**TO: THE OFFICER IN CHARGE**  
**REMAND HOME**

**IN ACCORDANCE** with the order endorsed on the above file and the remand warrant which is in your possession a cash bail of Shs.....has been paid by the accused/has been paid on behalf of the accused by.....into this court, you are hereby directed to release him and inform him to attend this court on.....day of.....20.....at.....am/pm

**GIVEN** under my hand and the Seal of the Court at.....

this.....day of.....20.....

.....

Magistrate

**NOTE:** Please return the remand warrant together with the bond to this court.

Annexure 12

MINUTE SHEET

MINUTE SHEET: CASE NUMBER.....			
S/NO	TYPE OF DOCUMENT	DATE FILED	NAME & SIGNATURE

## Annexure 13

## APPLICATION FOR REFERENCE TO ARCHIVES

CIVIL 50

.....  
By whom

(Address &amp; Telephone No.)

.....  
Capacity.....  
Description of \Archives and title of case.....  
Signature of Applicant.....  
Date.....  
Order of Keeper of

Archives

.....  
*Senior / Deputy Registrar**Senior / Resident Magistrate*

Drawn and filed by:

.....  
GPK 1134 - 20m - 4/72

Annexure 14

PHOTOCOPY REQUEST FORM

To: The Deputy Registrar,

RE: CASE NO:.....

I humbly request to be provided with the following;

a ] Photocopy of the order dated.....

b ] certified copy of.....

Name of applicant:.....

Signature.....

Telephone number.....

Date.....

Remarks.....

.....

.....



**Annexure 15****FORM NO. 1****NOTICE OF INTENDED DESTRUCTION OF COURT RECORDS**

In accordance with the Records Disposal (Courts) Rules, notice is hereby given that three months after the date of this notice I intend to apply to the Chief Justice for leave to destroy the records, books and papers of the Court of the..... at ..... as set out below:

Year ..... Civil Proceedings numbered .....

Year ..... Criminal Proceedings numbered .....

Any person desiring the return of an exhibit in any of the above cases must make good his claim before the ..... day of ..... 20 .....

All exhibits to which no claim is substantiated as above will be liable to be destroyed.

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

.....

Designation

**Annexure 16****FORM NO. 2****CERTIFICATE OF DESTRUCTION**

I, ..... of .....  
hereby certify that under and in accordance with the Records Disposal (Courts) Rules and with the  
leave of the Chief justice dated ....., the below-mentioned records, books  
and papers were in my presence then and there, completely destroyed by fire, together with all stamps  
and seals thereto belonging.

Year ..... Civil Proceedings numbered .....

Year ..... Criminal Proceedings numbered .....

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

.....  
Designation

**Annexure 17**

REPUBLIC OF KENYA

**THE JUDICIARY**

**HIGH COURT OF KENYA  
CRIMINAL DIVISION  
P. O BOX 30041  
NAIROBI.**

**Telegrams: "Court" Nairobi**

.....

.....

**HIGH COURT CRIMINAL CASE NO.....OF .....****REPUBLIC VERSUS.....**

By directions of the Honourable the Chief Justice I have to request you to undertake the defense of the accused in the above case at the usual remuneration which will be paid on submission of your bill.

Please note that this case has been listed for plea on the .....day of .....2004 at 9.00 a.m.

The Prisoner whom you are requested to defend is at present in G.K. Nairobi Remand, NAIROBI I am to request you to interview him/her as soon as possible for the purpose of preparing his/her defense and ascertaining what witnesses, if any he/she wishes to call his/her defense.

If it appears to you that the accused is suffering from any mental illness, it is open to you to request the Officer in Charge of the Prison concerned that the prisoner be examined by a medical officer fully as to his/her physical and mental condition and submit to you a copy of the medical officer's report. If you experience any difficulty with this matter you should at once communicate with the Commissioner of Prisons, who will take the necessary steps to give effect to your request.

A copy of the committal proceedings in the above case is enclosed herewith for your information and use, which please return to this Registry after the completion of the case.

Please acknowledge receipt of this letter.

**PRINCIPAL DEPUTY REGISTRAR****HIGH COURT OF KENYA- NAIROBI.**

CC: The Hon. The Attorney General, P.O. Box 40112, Nairobi  
The Officer in Charge, G.K. Prison, Nairobi Remand

(See Overleaf)

**EXTRACT FROM CJ 69 OF 4TH MARCH, 2004**  
**FEES ON PAUPER BRIEFS, ASSESSORS/PRIVATE INTERPRETERS WITH EFFECT FROM 4/3/2004**

Fees payable for the services above are revised as follows; -	KShs.
1. Instructions of Brief Fees	
(a) Court of Appeal.....	8,000.00
(b) High Court.....	6,000.00
2. Fee for each sitting day	
(a) For the first two days.....	2,000.00 Each
(b) For each subsequent day of part thereof.....	1,500.00 Each
3. Fees for appearance when:	
a) Case is in the list for hearing but not reached.....	1,000.00
(b) Accused pleads guilty and is convicted and sentence forthwith.....	1,000.00
4. Fees for appearance or mention date or for plea only.....	750.00
5. Fees for judgment or sentence.....	1,000.00
6. Private Interpreter services per day.....	1,000.00
7. Assessors on murder trials per day.....	750.00
8. Where an advocate appears for more than one accused person	
(The fees to be increased by (as per item (2 above).....	1,000.00

**Annexure 18**

**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
APPELLATE SIDE**

**HIGH COURT CRIMINAL APPEAL NO.....**

From Original Convictions and Sentences Criminal Case No.306 of 2008 of the Chief Magistrate's Court at Kiambu.

..... **APPELLANT**

V E R S U S

**REPUBLIC..... RESPONDENT**

**RESULT OF APPEAL**

Coram:

**PRINCIPAL DEPUTY REGISTRAR.**

The results in the above appeal decided by the High Court of Kenya at Nairobi on the ..... day of ..... is certified for your information and necessary action, if any.

Dated this .....ay of .....

To:

1. The Commissioner of Prison, P.O. Box 30175, Nairobi with a request to acknowledge receipt.
2. The Officer in Charge, Criminal Records Office, P.O. Box 30036, NAIROBI.  
(Appellants Docket No. .... Police Station, Police Case No. ....)
3. The Officer in Charge, G. K Prison ..... Prison P. O Box 65501 NAIROBI  
Convict No. ....
4. Trial Magistrate .....
5. The Chief Magistrate, ..... Law Courts P.O. Box ..... (together with your original record)

**Annexure 19*****Release signal***

"O"

**FROM: HIGH COURT APPELLATE SIDE****TO: GK.PRISON KAMITI MAIN @ NAIROBI REMAND****INFO: PHQ.**

DATE.....

**HCCRA NO**.....

HIGH COURT CRIMINAL APPEAL NO.....OF .....FROM

THE CHIEF MAGISTRATE'S COURT AT .....CRIMINAL

CASE NO. ....OF .....(.) THE APPLICANT'S  
SENTENCE REDUCED TO THE PERIOD SERVED(.) THE APPLICANT  
CONVICT NO.....SHALL BE RELEASED FORTHWITH UNLESS  
OTHERWISE LAWFULLY HELD(.) CONFIRM ACTION TAKEN (.)

**PRINCIPAL DEPUTY REGISTRAR**

Tel: 2221221 Ext. 3600

## Annexure 20

## FORM 4

## APPENDIX F (CPR)

## Certificate of Execution of Decree Transferred to Another Court

## (Title)

Number of suit and the court by which the decree was passed.

1

Names of parties.

2

Date of application for execution.

3

Number of the execution case.

4

Processes issued and dates of service thereof.

5

Costs of execution.

6

Sh. Cts.

Amount realized.

7

Sh. Cts.

How the case is disposed of.

8

Remarks.

9

.....

Signature of Judge

**Annexure 21**

**CIVIL APPEAL NO.....OF .....**

**CERTIFICATE UNDER SECTION 79B OF THE CIVIL PROCEDURE  
ACT  
(CAP 21 LAWS OF KENYA)**

Date:.....

The Hon. Mr./Lady Justice.....

The attached appeal file together with the lower court file is placed before Your Lordship/Ladyship for perusal and directions under Section 79B of the Civil Procedure Act.

**DEPUTY REGISTRAR**



**Annexure 22****CIVIL APPEAL FILE NO.....OF.....****APPENDIX OF DATE**

DESCRIPTION	DATE	REMARKS
Date of lodging Memorandum of Appeal.		
Judgment/Proceedings together with Lower		
Court Record asked for.		
First Reminder		
Second Reminder		
Third Reminder		
Record Received together with the		
requested papers from Lower Court.		
Date record of Appeal filed		
File submitted for perusal under Sec. 79B CPA.		
Date Memorandum of Appeal served.		
Date directions given under Order 42 Rule 13		
Date appeal listed for hearing.		
Date judgment delivered.		

**ORDER BY THE JUDGE UNDER****SECTION 79B OF THE CIVIL PROCEDURE ACT**

I do hereby certify that I have perused this appeal in accordance with section 79B of the Civil Procedure Act and find that it is not appropriate for summary rejection. The appeal is therefore admitted to hearing.

Date.....

**JUDGE**

I have perused this appeal in accordance with section 79B of the Civil Procedure Act and do certify that there is no sufficient ground for interfering with the decree, part of the decree or order appealed against. I therefore summarily reject the appeal.

Date.....

**JUDGE**

**Annexure 23**

**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**  
**CIVIL APPEAL NO.....OF.....**  
**(From the Original Civil Suit No.....of .....**

.....APPELLANT

VERSUS

.....RESPONDENT

**NOTICE UNDER ORDER 42 RULE 13**  
**OF THE CIVIL PROCEDURE RULES**

TAKE NOTICE that this appeal is listed for directions in Chamber on the.....day of  
 ..... of..... at 9.00 o'clock in the forenoon at the High Court of  
 Kenya at Nairobi.

GIVEN under my hand and the Seal of the Court at Nairobi this.....day  
 of.....

DEPUTY REGISTRAR  
 HIGH COURT OF KENYA, NAIROBI

1. M/s.....  
 .....  
 .....  
 .....  
 .....

2. M/s.....  
 .....  
 .....  
 .....

**Annexure 24****FORM 4****r.11(8))****REQUEST TO THE COURT TO EFFECT SERVICE****TO THE REGISTRAR****INDUSTRIAL COURT OF KENYA**

1. The \*Claimant/Appellant/Respondent hereby requests the registrar to effect service of process on the \*Claimant/Appellant/Respondent.
2. The physical address of the \*Claimant/Appellant/Respondent for purpose of this suit is as follows;  
  
.....  
  
.....  
  
.....  
  
.....
3. The \*Claimant/Appellant/Respondent has paid the requisite fee for service.

**DATED** at **NAIROBI** this.....day of.....20.....

\*Claimant/Appellant/Respondent

\*Delete as necessary.

**Annexure 25****FORM 3****r.11(4))****AFFIDAVIT OF SERVICE**

I.....  
 an \*advocate/a police officer/a process server of the court make oath and stay as follows:

1. On....., 200.....at.....(time) I served the summons in this suit on.....at (place) by tendering a copy thereof to \*him/her and requiring a signature on the original. \*He/She \*signed/refused to sign the summons. He/She was personally known to me/was identified to me by .....and admitted that \*he/she was the Respondent.
2. Not being able to find.....the Respondent on....., 200.....at.....(time) I served the summons on.....(name) an employee of the Respondent who is working with the Respondent.
3. (Otherwise specify the manner in which the summons was served).

SWORN by the said.....this.....day of .....200.....

Before me

A Commissioner of Oaths/Magistrate

**\*Delete as necessary**

**LIST OF MEMBERS WHO ATTENDED THE INITIAL WORKSHOP  
ON DEVELOPMENT OF REGISTRY OPERATION MANUAL**

NO	NAME	STATION
1	Hon. Judith Omenge	Registrar -High Court of Kenya
2	Hon. Reuben Nyakundi	Deputy Registrar, Commercial &Admiralty Division
3	Hon. Asenath Onger	Deputy Registrar, Judicial Review & Constitutional and Human Rights Division
4	Hon. Alex Ithuku	Deputy Registrar, Criminal Division
5	Hon. Isabellah Barasa	Deputy Registrar, Family Division
6	Hon Brenda Kituyi	Deputy Registrar, Murang'a Law Courts
7	Hon. Jane Ocharo	Deputy Registrar, Civil Division
8	Jackson Ngila	Executive Officer,Civil Division
9	Benjamin Kinuthia	Senior Archivist Nairobi, Civil Division
10	Mary Muteti	Executive Officer, Nairobi, Criminal Division
11	Eunice Mutie	Nairobi, Legal Researcher
12	Lillian Maina	Nairobi, Family Division
13	Nicholas Kahindi	Mombasa Law Courts
14	John Wachira	Nairobi, Judicial Review Division
15	Jomo Andanje	Nairobi, Commercial Division
16	Margaret Mogute	Nairobi, Environment and Land Division
17	Richard Wambua	Nairobi, Industrial Court
18	Otieno Orano	Kakamega Law Courts
19	Stephen Matheka Mutisya	Machakos Law Courts
20	Pauline Gatwiri	Nakuru Law Courts
21	Esther Mwangi	Nairobi, Civil Appeals
22	Anthony Wanjala	Nairobi, Family Division
23	Linda Thuma	Nairobi, Family Division
24	Ann Ndung'u	Nyeri Law Courts
25	Edwin Gisege Mong'are	Kisii Law Courts
26	James Olwete	Eldoret Law Courts
27	Martin Uswii Musau	Garissa Law Courts
<b>LIST OF PARTNERS</b>		
28	Jane Onyango	GIZ
29	Andrew Buluma	GIZ
30	Joseph Amisi	GIZ

**LIST OF STAKEHOLDERS IN THE FIRST VALIDATION WORKSHOP  
OF THE REGISTRY OPERATION MANUAL**

<b>NO</b>	<b>NAME</b>	<b>DESIGNATION</b>
1	JUMA PAUL OCHIENG	KLRC
2	IRENE W. KAMUNGE	AG.DIRECTOR LEGAL SERVICES
3	GREGORY KANYANJUA	RECORDS MANAGEMENT OFFICER I
4	DEDAN O. OKWAMA	EACC
5	DICK J. A. SAFARI	LANDS REGISTRY
6	MERCY WAMBUA	LSK DEPUTY SECRETARY
7	JOAN R.A. OBURU	LSK
8	JOHN KARIUKI	KENYA PRISONS
9	ALICE N. SIMIYU	KENYA POLICE
10	CATHERINE MWANIKI	SPPP.ODPP
11	SYLVIA KOOKE	LAW SOCIETY OF KENYA
12	JOSEPH GITONGA	LSK
13	EVELINAH M. OGETO	PROBATION

**LIST OF EDITORIAL TEAM MEMBERS**

<b>NO</b>	<b>NAME</b>	<b>DESIGNATION</b>
1	Hon. Judith Omenge	Registrar- High Court
2	Hon. Reuben Nyakundi	Deputy Registrar-Commercial & Admiralty Division- Milimani
3	Mr. Jackson Ngila	Executive Officer-Civil Division, Milimani
4	Mr. Benjamin Kinuthia	Senior Archivist-Milimani
5	Mrs. Mary Muteti	Executive Officer-Criminal Division
6	Ms. Eunice Mutie	Legal Researcher, Nairobi