

RGN 621 of 1971

Town Planning Court Rules, 1971

RGN 621/1971; SIs 122/1980, 394/1998

ARRANGEMENT OF PARTS

Part I : Interpretation of Terms.

Part II Appeals.

Part III : Determination of Compensation.

Part IV : Applications by a Local Authority under Part VI of the Act. Part

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IT is hereby notified that the president of the Town Planning Court, has, in terms of section 7 of the Town and Country Planning Act [Chapter 133], made the following rules regulating its procedure: —

1. These rules may be cited as the Town Planning Court Rules, 1971. PART I

INTERPRETATION OF TERMS

2. In these rules—

“Act” means the Town and Country Planning Act [Chapter 133];

“additional respondent” means—

(a) where the appellant is seeking by his appeal to obtain relief refused to him by the respondent, any objector who has filed a case in accordance with rule 9;

(b) where the appellant is seeking by his appeal to set aside relief obtained from the respondent, the person who obtained such relief;

“appellant” means any person prosecuting an appeal to the court under the Act;

“claimant” means any person claiming compensation determinable by the court under the Act;

“court” means the Town Planning Court, established under section 3 of the Act, and includes an additional town planning court established under section 4 of the Act;

“decision” means any decision or order made, notice given or condition imposed, in respect of which an appeal may be brought to the court under the Act;

“notice” means notice in writing;

“objector” means any person who lodged an objection with the respondent to the relief refused to the appellant by the respondent;

“president” means the president of the court;

“registrar” means the registrar of the court;

“respondent” means the Minister, council, town planning authority, responsible authority or any other person against whose decision an appeal is prosecuted to the court under the Act and, in any case in which compensation is claimed by a claimant, the person by whom such compensation is payable; “service” means service in accordance with section 114 of the Act.

PART II

APPEALS

3. Within the period prescribed by the Act, or, where no periods are so prescribed, within twenty-eight days of the making of any decision, the appellant shall serve notice of appeal under the registrar, identifying the decision appealed against, and stating that the appellant appeals against the decision, and that a copy of the notice of appeal has already been served upon the respondent.

4. The copy of the notice of appeal served upon the respondent may also contain a request by the appellant to the respondent to furnish the appellant, in writing, with the name and address of the additional respondent, or of each objector known to the respondent, as the case may be.

5. Upon the service of the notice of appeal upon the registrar, the respondent shall forthwith comply with such request.

6. Within twenty-eight days of the service of the notice of appeal upon the registrar, or within twenty-eight days of compliance by the respondent with such request, whichever is the later, the appellant shall serve a copy of the appellant's case upon the respondent and upon the additional respondent or each objector, as the case may be, and such case, in quadruplicate, upon the registrar, endorsing thereon the date of service of the appellant's case upon the respondent and upon the additional respondent, or each objector, as the case may be.

7. Should the appellant fail to submit his case within the time prescribed by rule 6, the registrar shall inform the appellant that the appeal will lapse unless the court, on good cause shown, gives the appellant leave to reinstate the appeal by service out of time of the appellant's case.

8. The appellant's case shall set out all the allegations of fact, which the appellant considers to be material to the determination of the appeal, any contentions of law relied upon by him and the precise relief sought by him, including any order as to costs. The appellant shall also state whether he intends to be legally represented at the hearing of the appeal, but such statement of intention shall be provisional and not binding upon him.

9. Within twenty-eight days of the receipt of the appellant's case by the registrar, the respondent and the additional respondent shall, and each objector, if any, may, serve a copy of his case upon the appellant, and serve copies of the case, in quadruplicate, upon the registrar, endorsing thereon the date of service of the said case upon the appellant. Should an objector not file a case within the prescribed time, he shall be regarded by the court as having taken no part in the appeal *ab initio*, and no order for costs shall be made against him.

10. The respondent's case and each additional respondent's case, if any, shall set out which of the allegations of fact and contentions of law in the appellant's case are admitted and which are denied, and shall set out any further allegations of fact which the respondent or the additional respondent considers to be material to the determination of the appeal, and any contentions of law relied upon by him.

11. The respondent's case and each additional respondent's case shall further set out the extent to which such respondent or additional respondent intends to participate further in the appeal, and the order as to the costs of the appeal sought by him. The case shall also state whether the party intends to be legally represented at the hearing of the appeal, but such statement of intention shall be provisional and not binding upon the party.

12. Should the respondent or the additional respondent, other than an additional respondent who was originally an objector, fail to serve his case within the time prescribed by rule 9, the registrar shall advise him that he shall thenceforth be regarded by the court as taking no further part in opposing the appeal, unless the court, on good cause shown, gives him leave to serve his case out of time.

13. Upon receipt of the respondent's case and each additional respondent's case, the appellant shall forthwith notify the registrar whether he intends to serve a reply to such case.

14. The appellant's reply, if any, shall be served upon the relevant respondent or additional respondent, and upon the registrar within twenty-one days of the receipt by the registrar of the case replied to, and rules 9, 10 and 11, relating to the content and service of the respondent's case, shall apply, *mutatis mutandis* to the appellant's reply.

15. Any person who was not concerned in the decision appealed against may obtain the leave of the court to participate in the appeal as an additional respondent.

PART III

DETERMINATION OF COMPENSATION

16. When a dispute arises between a claimant and a respondent as to whether compensation is payable or as to the amount of compensation payable under the Act, either party may serve notice upon the other stating that it does not appear possible to settle the dispute by negotiation and that the party does not intend to negotiate further.

17. Within twenty-eight days of such notice, the claimant shall serve notice upon the respondent and upon the registrar of his intention to submit the dispute to the court for its determination, endorsing upon the notice to the registrar the date of service upon the respondent.

18. Within twenty-eight days of service of the notice referred to in rule 17 upon the registrar, the claimant shall compile and serve his case upon the respondent and upon the registrar, in accordance as nearly as may be with rules 6 and 8, and thereafter the procedure laid down in rules 9, 10, 11, 13 and 14 shall be followed as nearly as may be.

19. If the claimant fails to serve his case within the time prescribed by rule 18, the respondent may call upon the claimant to serve his case within a further period of twenty-eight days. If the claimant fails to serve his case within such further period, the respondent may forthwith compile and serve its case in accordance as nearly as may be with rules 6 and 8, and the matter shall then proceed, and rules 9, 10, 11, 13 and 14 shall, *mutatis mutandis*, apply.

20. The periods of notice prescribed in this Part shall be subject to the provisions of section 55 of the Act.

PART IV

APPLICATIONS BY A LOCAL AUTHORITY UNDER PART VI OF THE ACT

21. Any local authority desiring to make application under Part VI of the Act for an order declaring that any street or portion of a street shall vest in such local authority shall make such application in writing, in quadruplicate, to the registrar.

22. The local authority shall further give notice of such application to any person who may be effected thereby, and shall serve a copy of such notice upon the registrar.

23. The local authority shall further give public notice, as defined in the Act, of its intention to make such application, indicating clearly the locality of the street or portion of a street which is the subject of such application, and shall serve copy of such notice upon the registrar.

24. The notices referred to in rules 22 and 23 shall call upon the recipient to serve notice upon the registrar within twenty-eight days of the recipient's intention, if any, to oppose the said application, in default of which notice the court shall regard the application as unopposed.

25. If the application is opposed, the local authority shall compile and serve its case upon any person opposing and upon the registrar in accordance as nearly as may be with rules 6 and 8, and thereafter the procedure laid down in rules 9, 10, 11, 13 and 14 shall be followed as nearly as may be.

PART V

GENERAL

26. At an appropriate stage of the proceedings, the registrar shall, after consultation with the president, appoint a day, time and place for the hearing of any matter, and shall serve notice of such appointment upon all interested parties.

27. If any interested party fails to appear, either in person or by representative, at the time and place appointed for the hearing of any matter, the court may, nevertheless, proceed to the determination thereof.

28. If any facts are in dispute, any party may call witnesses and produce evidence at the hearing of the matter.

29. The court may, of its own motion, call any witness with or without any documents, and may inspect any locality or building.

30. The court may at any stage of the proceedings call upon the parties to determine, or may itself determine, what issues fall to be decided in any matter.

31. The court may postpone or adjourn the hearing of any matter, and the registrar shall serve notice of any postponement or adjournment upon all interested parties not present or represented in the court when the postponement or adjournment is ordered.

32. After hearing such evidence and argument as may be tendered on behalf of all parties, the court shall proceed to determine the matter.

33. Should the court reserve its judgment, it may arrange for such judgment to be conveyed in writing to all interested parties by the registrar.

34. The court may extend any time laid down by these rules (which such time is not prescribed by the Act), or direct any other departure therefrom.

35. The president, if the court is not sitting, but subject to the provisions of section 6 of the Act, or if the parties consent thereto, may exercise the powers conferred upon the court by these rules.

36. Any application in connexion with these rules or with any procedural matter not covered by these rules may be made by letter served upon the registrar, setting out all the facts relevant to the determination of the application. A copy of such letter shall be served upon any other interested party before service upon the registrar.

37. The registrar shall, upon request, supply to any interested party in any proceeding a copy of any document filed by any other party in that proceeding.

38. The record of proceedings referred to in subsection (7) of section 3 of the Act shall be a verbatim record, save that, with the consent of all interested parties present at any hearing, the president may record or cause to be recorded the substance of the evidence led at that hearing.

39. If at any stage of the proceeding it appears to the court that some person should be given notice of such proceeding, the court may order that such notice be given and, if necessary, may postpone such proceeding for such purpose.

40. Any parties may, for the sake of convenience, act jointly instead of separately at any stage for any proceeding, provided that the opposite party is not prejudiced thereby.

41. The court may at any stage of any proceedings order that two or more matters be consolidated, or heard simultaneously.

42. Any costs ordered by the court or the president shall be taxed by the registrar.

43. The Town Planning Court Rules, 1957, published in Rhodesia Government Notice No. 158 of 1957 are repealed.