

CONSTITUTION OF KENYA, 2010

SUBSIDIARY LEGISLATION

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THE CONSTITUTION OF KENYA
THE CONSTITUTION OF KENYA REVIEW ACT, 2008
(No. 9 of 2008)

THE NEW CONSTITUTION OF KENYA PROMULGATION

[L.N. 133/2010.]



By His Excellency the Honourable Mwai Kibaki,
President and Commander-in-Chief of the Armed
Forces of the Republic of Kenya.

WHEREAS the people of Kenya, in exercise of their sovereign right to replace the Constitution, ratified the proposed New Constitution of Kenya through a referendum held on the 4th August, 2010, in accordance with the provisions of section 47A of the Constitution of Kenya and Part V of the Constitution of Kenya Review Act, 2008;

AND WHEREAS the Constitution of Kenya (Amendment) Act, 2008 and the Constitution of Kenya Review Acts of 1997 and 2008, as variously amended, provided a legal framework for the comprehensive review and replacement of the current Constitution by the people of Kenya, which ensured that the review process—

- (a) accommodated the diversity of the Kenyan people, including socio economic status, race, ethnicity, gender, religious faith, age, occupation, learning, persons with disabilities and the disadvantaged and was guided by respect for the universal principles of human rights, gender equity and democracy;
- (b) provided the people of Kenya an opportunity to actively, freely and meaningfully participate in generating and debating proposals to alter the Constitution;
- (c) resulted in a new Constitution which faithfully reflected the wishes of the people of Kenya;

AND WHEREAS for the last two decades, the people of Kenya have yearned for a new Constitution which—

- (a) guarantees peace, national unity and integrity of the Republic of Kenya in order to safeguard the well-being of the people of Kenya;
- (b) establishes a free and democratic system of Government that ensures good governance, constitutionalism, the rule of law, human rights and gender equity;
- (c) recognises and demarcates divisions of responsibility among the various state organs, including the executive, the legislature and the judiciary, so as to create checks and balances between them and to ensure accountability of the Government and its officers to the people of Kenya;
- (d) promotes the people's participation in the governance of the country through democratic, free and fair elections and the devolution and exercise of power and further ensures the full participation of the people in the management of public affairs;
- (e) respects the pride of the people of Kenya in their ethnic, cultural and religious diversity and their determination to live in peace and unity as one indivisible sovereign nation;
- (f) ensures the provision of basic needs of all Kenyans through the establishment of an equitable framework for economic growth and equitable access to national resources;

[Subsidiary]

- (g) strengthens national integration and unity and commits Kenyans to peaceful resolution of national issues through dialogue and consensus;

NOW THEREFORE, in exercise of the powers conferred on me by section 47A (6) of the Constitution of Kenya and section 43A of the Constitution of Kenya Review Act, 2008, I, Mwai Kibaki, President and Commander-in-Chief of the Armed Forces of the Republic of Kenya, declare that the Constitution set out in the Schedule shall be the new Constitution of Kenya with effect from the 27th August, 2010.

SCHEDULE—(*The Constitution of Kenya*).

CONSTITUTION OF KENYA

CONCERNING CREATION OF A COMMEMORATIVE AWARD

[L.N. 197/2010.]

PROCLAMATION



By His Excellency the Hon. Mwai Kibaki, President and
Commander-in-Chief of the Defence Forces of the
Republic of Kenya.

IN EXERCISE of the powers vested in me by section 132(4)(c) of the Constitution of Kenya and all other powers enabling me in that behalf, I, Mwai Kibaki, President and Commander-in-Chief of the Defence Forces of the Republic of Kenya, create the commemorative award specified in the First Schedule and establish in respect thereof the rules set out in the Second Schedule.

FIRST SCHEDULE

PROMULGATION OF THE NEW CONSTITUTION COMMEMORATIVE MEDAL

SECOND SCHEDULE

RULES GOVERNING THE COMMEMORATIVE AWARD

1. The Medal shall be known as the "Promulgation of the New Constitution Commemorative Medal."
2. The Medal shall consist of cupro-nickel with beaded finish designed round with an insignia of the President holding the New Constitution Booklet aloft on the top side with the wording "PRESIDENT MWAI KIBAKI-PROMULGATION OF NEW CONSTITUTION" and on the reverse shall be the map of Kenya and the Emblem of Justice.
3. The Medal may be awarded to all members of the Disciplined Services, recommended Public Service Officers, political leaders, members of the Defence Forces and other uniformed services and to prominent personalities who contributed significantly to the realization of the New Constitution of 27th August, 2010.
4. Non-Kenyan may be awarded the Medal.
5. The Medal may be awarded posthumously approval of the award of the medal shall maintain records of the names.
6. The officers to whom authority has been delegated for the approval of the award of the medal shall maintain records of the names of those to whom it has been awarded and publish those names in appropriate orders.
7. The Medal shall be worn on the left breast pendant from its riband in such a position in regard to other orders, decorations or medals.
8. The issue of the Promulgation of the New Constitution Commemorative Medal shall be restricted to a single award on the anniversary of the Promulgation of the New Constitution, the 27th August, 2010.
9. The President may annul the award of the medal and may also restore it after annulment and any annulment or restoration shall be published in the Kenya *Gazette*.

CONSTITUTION OF KENYA

PUBLIC PROSECUTIONS – DELEGATION OF POWERS

[L.N. 72/2005, L.N. 134/2010, L.N. 104/2011.]

IN EXERCISE of the powers conferred by Article 157(9) of the Constitution of Kenya, the Director of Public Prosecutions orders that all powers vested in him by Article 157(4) and (6) of the Constitution shall be exercised by the persons for the time being holding the offices specified in the Schedule, acting in accordance with his general or special instructions.

SCHEDULE

Chief Public Prosecutor.

Deputy Chief Public Prosecutor.

Chief State Counsel.

Special Public Prosecutor.

Senior Deputy Prosecution Counsel.

Deputy Prosecution Counsel.

Assistant Deputy Public Prosecutor/Senior Principal State.

Counsel/Senior Principal Prosecution Counsel.

Principal State Counsel/Principal Prosecution Counsel.

Senior State Counsel/Senior Prosecution Counsel.

State Counsel/Prosecution Counsel.

This Notice shall be deemed to have come into operation on the 20th June, 2011.

Legal Notice No. 134 of 2010 is revoked.

CONSTITUTION OF KENYA

PUBLIC PROSECUTIONS – DELEGATION OF POWERS

[L.N. 138/2012.]

IN EXERCISE of the powers conferred by article 157(9) of the Constitution of Kenya, the Director of Public Prosecutions orders that all powers vested in him by article 157(4) and (6) of the Constitution shall be exercised by the persons for the time being holding the offices specified in the Schedule, acting in accordance with his general or special instructions.

SCHEDULE

Deputy Director of Public Prosecutions.

Senior Assistant Director of Public Prosecutions.

Assistant Director of Public Prosecutions.

Senior Principal Prosecution Counsel.

Principal Prosecution Counsel.

Senior Prosecution Counsel.

Prosecution Counsel I.

Prosecution Counsel II.

CONSTITUTION OF KENYA

PROCLAMATION

CONCERNING CREATION OF A COMMEMORATIVE AWARD

[L.N. 106/2012.]

By His Excellency the Honourable Mwai Kibaki, President and Commander-in-Chief of the Defence Forces of the Republic of Kenya.

In Exercise of the powers conferred by section 23 of the former Constitution and all powers enabling me in that behalf, I, Mwai Kibaki, President and Commander-in-Chief of the Defence Forces of the Republic of Kenya, create the commemorative award specified in the First Schedule and establish in respect thereof the rules set out in the Second Schedule.

FIRST SCHEDULE

THE LINDA NCHI CAMPAIGN MEDAL



SECOND SCHEDULE

RULES GOVERNING THE COMMEMORATIVE AWARD

1. The medal shall be known as “The Linda Nchi Campaign Medal” (hereinafter referred to as “the medal”).
2. The medal shall consist of a cupro-nickel finishing polished and circular in design measuring 36 millimetres in diameters bearing an insignia of the head and bust image of the President of the Republic of Kenya at the centre surrounded by the inscriptions “H.E. HON. MWAI KIBAKI” and the “PRESIDENT OF THE REPUBLIC OF KENYA” on the obverse and on the reverse it shall depict a lion holding a spear surmounted on the map of Kenya in its background surrounded with the inscriptions “REPUBLIC OF KENYA” and “LINDA NCHI CAMPAIGN MEDAL”. The medal is suspended from a bead and on a ring. The ring is attached to a ribbon, 32 millimetres in width and on 50 millimetres in length. On the ribbon bar are golden stripes at each end of 35 millimetres and two small stripes of green colour separated in the middle by a thin white stripe at the centre measuring 4 millimetres.
3. The medal shall be awarded to all ranks of the Kenya Army, the Kenya Air Force, the Kenya Navy and the National Police Service who have served for at least thirty days, not necessarily consecutively, in Operation Linda Nchi, an operation against the Al-Shabaab in the operation area.
4. For the purpose of this proclamation—
 - (a) “**Operation Area**” means the territory of the Republic of Somalia including its territorial seas and the exclusive economic zone; and
 - (b) “**serving in an operation area**” means either being stationed in the Operation Area or accompanying or escorting a convoy or carrying out operational flights or operational maritime manoeuvres into the Operation Area.
5. Notwithstanding paragraph 3, the medal shall be awarded to—
 - (a) all ranks of the Kenya Defence forces who participated or assisted in the planning of the operations against Al Shabaab and in the command and control of the Kenya Defence Forces during the operation; and
 - (b) the aircrew of all ranks who flew sorties or missions during the operation.
6. The medal may be awarded posthumously to a deceased officer and it shall not be mandatory that the officer should have served for at least thirty cumulative days in the Operation Area before the date of death, provided that the proximate cause of death arose in the Operation Area.
7. The officer to whom authority has been delegated for the approval of the award of the medal shall maintain records of the names of those to whom the medal has been awarded and publish those names in the appropriate order.
8. The medal shall be worn on the left breast pendant from its ribband in such a position in regard to other orders, decorations and medals.
9. The President may annul and restore the award of the medal by notice in the Gazette.

CONSTITUTION OF KENYA

FIRST SITTING OF THE NATIONAL ASSEMBLY

[L.N. 55/2013.]

In Exercise of the powers conferred by Article 126(2) of the Constitution of Kenya, I, Mwai Kibaki, President and Commander-in-Chief of the Kenya Defence Forces appoint that the first sitting of the National Assembly of the Eleventh Parliament shall be held at the main Parliament Buildings, Nairobi, on Thursday, 28th March, 2013, at 9.00 a.m.

CONSTITUTION OF KENYA

FIRST SITTING OF THE SENATE

[L.N. 56/2013.]

In Exercise of the powers conferred by Article 126(2) of the Constitution of Kenya, I, Mwai Kibaki, President and Commander-in-Chief of the Kenya Defence Forces appoint that the first sitting of the Senate shall be held at the Kenyatta International Conference Centre, Nairobi, on Thursday, 28th March, 2013, at 9.00 a.m.

**CONSTITUTION OF KENYA (PROTECTION OF RIGHTS AND
FUNDAMENTAL FREEDOMS) PRACTICE AND PROCEDURE RULES, 2013**

ARRANGEMENT OF RULES

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SCHEDULE

**CONSTITUTION OF KENYA (PROTECTION OF
RIGHTS AND FUNDAMENTAL FREEDOMS)
PRACTICE AND PROCEDURE RULES, 2013**

[L.N. 117/2013.]

PART I – PRELIMINARY

1. Citation

These rules may be cited as the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013.

2. Interpretation

In these rules, unless the context requires otherwise—

“**Constitution**” means the Constitution of Kenya;

“**costs**” means lawyers’ fees and other disbursements of the parties but does not include court fees;

“**Court of Appeal**” means the Court of Appeal of Kenya established by Article 164 of the Constitution;

“**document**” includes—

- (a) any publication, or any matter written, expressed, or inscribed on any substance by means of letters, figures or marks, or by more than one of those means, that is intended to be used or may be used for the purpose of recording that matter; and
- (b) electronic files;

“**friend of the court**” is an independent and impartial expert on an issue which is the subject matter of proceedings but is not party to the case and serves to benefit the court with their expertise;

“**High Court**” means the High Court of Kenya established by Article 165 of the Constitution and includes courts with the status of a High Court established under Article 162(2) of the Constitution;

“**informal documentation**” includes any legible document in any language that is simple, does not conform to any particular form or rules of grammar and conveys information;

“**interested party**” means a person or entity that has an identifiable stake or legal interest or duty in the proceedings before the court but is not a party to the proceedings or may not be directly involved in the litigation;

“**person**” includes an individual, organisation, company, association or any other body of persons whether incorporated or unincorporated;

“**petitioner**” means any person who institutes proceedings or cross petitions under these rules and for the purposes of a cross petition includes a cross petitioner;

“**Registrar**” includes assistant and deputy registrar in any particular court;

“**respondent**” means a person who is alleged to have denied, violated or infringed, or threatened to deny, violate or infringe a right or fundamental freedom;

“**service**” means delivery of an order, summons, or other legal papers to the person required to respond to them; and

“**Supreme Court**” means the Supreme Court of Kenya established by Article 163 of the Constitution.

3. Scope and objectives

- (1) These Rules shall apply to all proceedings made under Article 22 of the Constitution.
- (2) The overriding objective of these rules is to facilitate access to justice for all persons as required under Article 48 of the Constitution.
- (3) These Rules shall be interpreted in accordance with Article 259(1) of the Constitution and shall be applied with a view to advancing and realising the—
 - (a) rights and fundamental freedoms enshrined in the Bill of Rights; and
 - (b) values and principles in the Constitution.
- (4) The Court in exercise of its jurisdiction under these rules shall facilitate the just, expeditious, proportionate and affordable resolution of all cases.
- (5) For the purpose of furthering the overriding objective, the Court shall handle all matters presented before it to achieve the—
 - (a) just determination of the proceedings;
 - (b) efficient use of the available and administrative resources;
 - (c) timely disposal of proceedings at a cost affordable by the respective parties; and
 - (d) use of appropriate technology.
- (6) A party to proceedings commenced under these Rules, or an advocate for such party is under a duty to assist the Court to further the overriding objective of these rules and in that regard to—
 - (a) participate in the processes of the Court; and
 - (b) comply with the directions and orders of the Court.
- (7) The Court shall pursue access to justice for all persons including the—
 - (a) poor;
 - (b) illiterate;
 - (c) uninformed;
 - (d) unrepresented; and
 - (e) persons with disabilities
- (8) Nothing in these rules shall limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

PART II – PROCEDURE FOR INSTITUTING COURT PROCEEDINGS

4. Contravention of rights or fundamental freedoms

- (1) Where any right or fundamental freedom provided for in the Constitution is allegedly denied, violated or infringed or threatened, a person so affected or likely to be affected, may make an application to the High Court in accordance to these rules.
- (2) In addition to a person acting in their own interest, court proceedings under sub rule (1) may be instituted by—
 - (i) a person acting on behalf of another person who cannot act in their own name;
 - (ii) a person acting as a member of, or in the interest of, a group or class of persons;
 - (iii) a person acting in the public interest; or
 - (iv) an association acting in the interest of one or more of its members.

5. Addition, joinder, substitution and striking out of parties

The following procedure shall apply with respect to addition, joinder, substitution and striking out of parties—

[Subsidiary]

- (a) Where the petitioner is in doubt as to the persons from whom redress should be sought, the petitioner may join two or more respondents in order that the question as to which of the respondent is liable, and to what extent, may be determined as between all parties.
- (b) A petition shall not be defeated by reason of the misjoinder or non-joinder of parties, and the Court may in every proceeding deal with the matter in dispute.
- (c) Where proceedings have been instituted in the name of the wrong person as petitioner, or where it is doubtful whether it has been instituted in the name of the right petitioner, the Court may at any stage of the proceedings, if satisfied that the proceedings have been instituted through a mistake made in good faith, and that it is necessary for the determination of the matter in dispute, order any other person to be substituted or added as petitioner upon such terms as it thinks fit.
- (d) The Court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear just—
 - (i) order that the name of any party improperly joined, be struck out; and
 - (ii) that the name of any person who ought to have been joined, or whose presence before the court may be necessary in order to enable the court adjudicate upon and settle the matter, be added.
- (e) Where a respondent is added or substituted, the petition shall unless the court otherwise directs, be amended in such a manner as may be necessary, and amended copies of the petition shall be served on the new respondent and, if the court thinks, fit on the original respondents.

6. Friend of the Court

The following procedure shall apply with respect to a friend of the court—

- (a) The Court may allow any person with expertise in a particular issue which is before the Court to appear as a friend of the Court.
- (b) Leave to appear as a friend of the Court may be granted to any person on application orally or in writing.
- (c) The Court may on its own motion request a person with expertise to appear as a friend of the Court in proceedings before it.

7. Interested party

(1) A person, with leave of the Court, may make an oral or written application to be joined as an interested party.

(2) A court may on its own motion join any interested party to the proceedings before it.

8. Place of filing

(1) Every case shall be instituted in the High Court within whose jurisdiction the alleged violation took place.

(2) Despite sub rule (1), the High Court may order that a petition be transferred to another court of competent jurisdiction either on its own motion or on the application of a party.

9. Notice of institution of the petition

(1) The Court may direct that notice of institution of petition be posted on the Court notice board or be published in the Gazette, a daily newspaper with national circulation or the Judiciary's website.

(2) The notice referred to in sub rule (1) shall—

- (a) contain a brief summary of the case, reference to the provisions of the Constitution violated or infringed and the relief sought; and
- (b) be approved by the Registrar.

10. Form of petition

(1) An application under rule 4 shall be made by way of a petition as set out in Form A in the Schedule with such alterations as may be necessary.

(2) The petition shall disclose the following—

- (a) the petitioner's name and address;
- (b) the facts relied upon;
- (c) the constitutional provision violated;
- (d) the nature of injury caused or likely to be caused to the petitioner or the person in whose name the petitioner has instituted the suit; or in a public interest case to the public, class of persons or community;
- (e) details regarding any civil or criminal case, involving the petitioner or any of the petitioners, which is related to the matters in issue in the petition;
- (f) the petition shall be signed by the petitioner or the advocate of the petitioner; and
- (g) the relief sought by the petitioner.

(3) Subject to rules 9 and 10, the Court may accept an oral application, a letter or any other informal documentation which discloses denial, violation, infringement or threat to a right or fundamental freedom.

(4) An oral application entertained under sub rule (3) shall be reduced into writing by the Court.

11. Documents to be annexed to affidavit or petition

(1) The petition filed under these rules may be supported by an affidavit.

(2) If a party wishes to rely on any document, the document shall be annexed to the supporting affidavit or the petition where there is no supporting affidavit.

12. Registrar to assist in filing of petitions

The Registrar shall cause a prescribed form to be available in the Registry to assist petitioners who bring oral applications to have them reduced in writing.

13. Petition filed under certificate of urgency

A petition filed under certificate of urgency may be placed before a Judge for appropriate orders or directions.

14. Service of petition

(1) The petitioner shall serve the respondent with the petition, documents and relevant annexures within 15 days of filing or such time as the court may direct.

(2) Proof of service shall be the affidavit of service set out in Form B in the Schedule with such variations as may be necessary.

15. Reply to a petition

(1) The Attorney-General or any other State organ shall within fourteen days of service of a petition respond by way of a replying affidavit and if any document is relied upon, it shall be annexed to the replying affidavit.

(2) (a) A respondent not in the category of sub-rule (1) shall within seven days file a memorandum of appearance and either a—

- (i) replying affidavit; or
- (ii) statement setting out the grounds relied upon to oppose the petition.

(b) After filing either of the documents referred to in sub-rule (2)(a), a respondent may respond by way of a replying affidavit or provide any other written document as a response to the petition within fourteen days.

[Subsidiary]

(3) The respondent may file a cross-petition which shall disclose the matter set out in rule 10(2).

16. Failure to respond within stipulated time

(1) If the respondent does not respond within the time stipulated in rule 15, the Court may hear and determine the petition in the respondent's absence.

(2) The Court may set aside an order made under subrule (1) on its own motion or upon the application of the respondent or a party affected by the order.

17. Consolidation

The Court may on its own motion or on application by any party consolidate several petitions on such terms as it may deem just.

18. Amendment of pleadings

A party that wishes to amend its pleadings at any stage of the proceedings may do so with the leave of the Court.

19. Formal applications

A formal application under these rules shall be by Notice of Motion set out in Form D in the Schedule and may be supported by an affidavit.

PART III – HEARING AND DETERMINATION OF COURT PROCEEDINGS

20. Hearing of the petition

(1) The hearing of the petition shall, unless the Court otherwise directs, be by way of—

- (a) affidavits;
- (b) written submissions; or
- (c) oral evidence.

(2) The Court may limit the time for oral submissions by the parties.

(3) The Court may upon application or on its own motion direct that the petition or part thereof be heard by oral evidence.

(4) The Court may on its own motion, examine any witness or call and examine or recall any witness if the Court is of the opinion that the evidence is likely to assist the court to arrive at a decision.

(5) A person summoned as a witness by the court may be cross examined by the parties to the petition.

21. Evaluating petition for directions and allocating hearing dates

(1) In giving directions on the hearing of the case, a Judge may require that parties file and serve written submissions within fourteen days of such directions or such other time as the Judge may direct.

(2) A party who wishes to file further information at any stage of the proceedings may do so with the leave of the Court.

(3) The Court may frame the issues for determination at the hearing and give such directions as are necessary for the expeditious hearing of the case.

22. Written submissions

(1) Each party may file written submissions.

(2) Subject to such directions as may be issued by the court, written submissions shall contain the following—

- (a) a brief statement of facts with reference to exhibits, if any, attached to the petition;
- (b) issues arising for determination; and

- (c) a concise statement of argument on each issue incorporating the relevant authorities referred to together with the full citation of each authority.

(3) Copies of the authorities to be relied on shall be attached to the written submissions.

23. Conservatory or interim orders

(1) Despite any provision to the contrary, a Judge before whom a petition under rule 4 is presented shall hear and determine an application for conservatory or interim orders.

(2) Service of the application in sub rule (1) may be dispensed with, with leave of the Court.

(3) The orders issued in sub-rule (1) shall be personally served on the respondent or the advocate on record or with leave of the Court, by substituted service within such time as may be limited by the Court.

24. Application under rule 21

(1) An application under rule 23 may be made by way of notice of motion or by informal documentation.

(2) Where an oral application is made under rule 23, the Court shall reduce it in writing.

25. Setting aside, varying or discharge

An order issued under rule 22 may be discharged, varied or set aside by the Court either on its own motion or on application by a party dissatisfied with the order.

26. Costs

(1) The award of costs is at the discretion of the Court.

(2) In exercising its discretion to award costs, the Court shall take appropriate measures to ensure that every person has access to the Court to determine their rights and fundamental freedoms.

27. Withdrawal or discontinuance

(1) The petitioner may—

- (a) on notice to the court and to the respondent, apply to withdraw the petition; or
- (b) with the leave of the court, discontinue the proceedings.

(2) The Court shall, after hearing the parties to the proceedings, decide on the matter and determine the juridical effects of that decision.

(3) Despite sub rule (2), the Court may, for reasons to be recorded, proceed with the hearing of a case petition in spite of the wish of the petitioner to withdraw or discontinue the proceedings.

28. Acquiescence

If the respondent does not dispute the facts in the petition whether wholly or in part, the Court shall, after hearing the parties, make such orders as it may deem fit.

29. Settlement by consent

The parties may, with leave of the Court, record an amicable settlement reached by the parties in partial or final determination of the case.

30. Extension of time

The Court may extend time limited by these rules, or by any decision of the Court.

31. Use of alternative dispute resolution

The Court may refer a matter for hearing and determination by alternative dispute resolution mechanism.

[Subsidiary]

32. Stay pending appeal

(1) An appeal or a second appeal shall not operate as a stay of execution or proceedings under a decree or order appealed.

(2) An application for stay of execution may be made informally immediately following the delivery of judgment or ruling and the court may issue such orders as it deems fit and just.

(3) A formal application for stay may be filed within 14 days of the decision appealed from or within such time as the court may direct.

33. Court Fees

There shall be paid in respect of all proceedings under these Rules the same court fees as are payable in respect of civil proceedings in the High Court in so far as the same are applicable.

34. Waiver of court fees

(1) A person who wishes to be exempted from paying court fees may apply to the Registrar.

(2) An application under sub-rule (1) may be made by informal documentation.

(3) The reasons for the Registrar's decision shall be recorded.

35. Practice Directions

The Chief Justice may issue practice directions for the better carrying out of these rules.

36. Review

The Chief Justice may review these rules from time to time.

SCHEDULE**Form A**

[Rule 10(1).]

IN THE HIGH COURT OF KENYA AT

PETITION NO. OF 20

IN THE MATTER OF ARTICLE 22(1)

IN THE MATTER OF ALLEGED CONTRAVENTION OF RIGHTS
OR FUNDAMENTAL FREEDOMS UNDER ARTICLE (*insert
article*)

BETWEEN

A.B. (*insert names of parties*) PETITIONER
AND

C.D. (*insert names of parties*) RESPONDENT

TO:

The High Court of Kenya

The Petition of A.B (*insert names of Petitioner*) of (*insert address of Petitioner*)

..... in the Republic of Kenya is as follows— (*the allegations upon which the Petitioner(s) rely must be concisely set out, in consecutively numbered paragraphs and should address the following:*

- (a) the facts of the case,
- (b) nature of the injury caused or likely to be caused to Petitioner or public in public interest suits,
- (c) details regarding any civil, criminal or other litigation involving the Petitioner which could have a legal nexus with the issue raised in the suit)

Your Petitioner(s) therefore pray(s) that

(set out exact order(s) sought)

Or that such other order(s) as this Honourable Court shall deem just.

DATED at this day of 20

Signed
Petitioner/Advocate for the Petitioner

DRAWN & FILED BY:

TO BE SERVED UPON:

Form B

[Rule 14(2).]

AFFIDAVIT OF SERVICE

(Title)

I of an adult of sound mind/
advocate/ a police officer/a process server of the court make oath and say as follows:

- (1) On, 20 at (time) I served the petition/replying affidavit/document in this case on (name) at (place) by tendering a copy thereof to him/her and requiring a signature on the original. He/She signed/refused to sign the petition/replying affidavit/document. He/She was personally known to me/was identified to me by and admitted that he/she was the respondent/petitioner.
- (2) Not being able to find the respondent/petitioner on, 20 at (time) I served the petition/ replying affidavit/document on (name) an adult member of the family of the respondent/petitioner who is residing with him/her.
- (3) Not being able to find the respondent/petitioner or any person on whom service could be made, on, 20 at (time), I affixed a copy of the petition/ replying affidavit/document to the outer door of being the house in which he/she ordinarily resides/carries on business/personally works for gain. I was accompanied by who identified the house to me.
- (4) (Otherwise specify the manner in which the petition/replying affidavit/document was served).

SWORN by the said this

day of, 20

Before me

.....
A Commissioner of Oaths/Magistrate.

[Subsidiary]

Form C

[Rule 22(3).]

SUBSTITUTED SERVICE BY ADVERTISEMENT

To:

of

Take notice that a petition has been filed in the Court at
 in Civil Suit No. of 20, in which you are named as respondent. Service of
 the petition on you has been ordered by means of this advertisement. A copy of the petition
 may be obtained from the court at
 (insert postal address of registry).

And further take notice that, unless you enter an appearance within days,
 the case will be heard in your absence.

Form D

(Title)

(as in the Petition)

NOTICE OF MOTION

TAKE NOTICE THAT that this Honorable Court Shall be moved on the..... day
 of 20 at 9:00 o'clock in the forenoon or as soon thereafter as the
 applicant/counsel for the applicant may be heard on an application FOR ORDERS:—

- (a)
 (b)

WHICH APPLICATION is made on the following grounds:—

- (i)
 (ii)
 (iii)

AND WHICH APPLICATION is supported by the annexed affidavit of and by such other
 grounds, reasons and arguments as shall be adduced at the hearing hereof.

DATED at this day of 20

APPLICANT/ADVOCATES FOR THE APPLICANTS

Drawn and filed by:

To be served upon:

*"If any person served does not appear at the time and place abovementioned such orders
 shall be made and proceedings taken as the court deems just and expedient".*

