

*Court Brokers and Process Servers (Appointment, Remuneration and
Disciplinary)*

GOVERNMENT NOTICE NO 363 published on 22/09/2017

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

—————
COURT RULES

—————
(Made under section 4)
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THE COURT BROKERS AND PROCESS SERVERS (APPOINTMENT, REMUNERATION
AND DISCIPLINARY) RULES, 2017

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

COURT RULES

(Made under section 4)

THE COURT BROKERS AND PROCESS SERVERS (APPOINTMENT, REMUNERATION
AND DISCIPLINARY) RULES, 2017

PART I
PRELIMINARY PROVISIONS

Citation

1. These Rules may be cited as the Court Brokers and Process Servers (Appointment, Remuneration and Disciplinary) Rules, 2017.

Interpretation

2. In these Rules, unless the context requires otherwise:-

“Code of Conduct” means code of conduct referred to under rule 10(1);

“Committee” means the Court Brokers and Process Servers Appointments and Disciplinary Committee established under rule 3(1);

“court broker” means a person appointed under rule 5;

“court process” means a legal document issued by the court for service on interested parties;

“executing officer” means a court broker, a process server or any other person engaged by the Registrar or a magistrate to execute a warrant of attachment or court order for sale, or to serve or effect court a

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court process.

“magistrate” means the resident magistrate in charge of a court of resident magistrate or a district court;

“process server” means a person appointed under rule 5(2) or engaged in terms of rule 30 of these Rules to effect service of court process;

“Registrar” means the Registrar of the High Court and includes the Deputy Registrar of the High Court;

“secretary” means a secretary of the Committee;

“website” means an official website of the Judiciary of Tanzania.

PART II

APPOINTMENT OF COURT BROKERS AND PROCESS SERVERS

Establishment of
Committee

3.-(1) There shall be established a committee to be known as known as “Court Brokers and Process Servers Appointment, and Disciplinary Committee.”

(2) The Committee shall be composed of:-

- (a) the Jaji Kiongozi who shall be the chairman or his a representative;
- (b) one member representing the Tanganyika Law Society;
- (c) one member representing the Attorney-General;
- (d) one member representing court brokers;
- (e) one member representing process servers; and
- (f) The Registrar who shall be the secretary to the Committee.

Functions of
Committee

4. The functions of the Committee shall be to:-

- (a) consider applications and issue certificates of court brokers or process servers;
- (b) cause to be published in the *gazette* and in wide spread newspapers the names of the appointed

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court brokers and process servers;

- (c) hear and determine any allegation of misconduct made against a court broker or process server and to take necessary measures under these Rules or any other written laws;
- (d) establish sub-committees at High Centres to perform any of its functions on its behalf as the Committee shall be, from time to time, determined; and
- (e) monitor compliance with these Rules.

Appointment of court brokers and process servers

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5.-(1) Where the Committee is satisfied that a person:-

- (a) is a citizen and resident of Tanzania who has attained the age of majority;
- (b) is director of a company incorporated in Tanzania or partner of an entity which is registered and licensed under the General Auctioneers Act;
- (c) has at least attained Ordinary Level of Secondary Education or its equivalent and is fluent in both Kiswahili and English;
- (d) is a holder of a certificate prescribed under rule 6 (2) (e);
- (e) is conversant with the rules of execution as provided for under the Civil Procedure Code and any other written laws;
- (f) is of good repute and of high integrity;
- (g) is of good financial standing;
- (h) has adequate facilities for the safe storage of goods;
- (i) has paid a non-refundable application fee of two hundred and fifty thousand shillings; and
- (j) has appeared for an interview before the committee and passed at a grade which the committee may determine.

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it may appoint such person to be a court broker of a region for which he is appointed.

(2) Where the Committee is satisfied that a person:-

- (a) is a citizen and resident of Tanzania who has attained the age of majority;
- (b) has obtained or undertaken to obtain a business licence relating to the functions of a process server;
- (c) has at least attained Ordinary Level of Secondary Education or its equivalent and is fluent in both Kiswahili and English;
- (d) is conversant with the rules of service of court process as provided for under the Civil Procedure Code and any other written laws; and
- (e) has paid a non-refundable application fee of thirty thousand shillings,

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it may appoint such person to be a process server.

(3) Notwithstanding sub rule (1) and (2), a person shall not be eligible for appointment as a court broker or process server under these Rules if that person:-

- (a) has been convicted of an offence involving fraud, dishonesty or immorality and sentenced to imprisonment for a term exceeding six months within ten years before such person applied to be appointed as a court broker or process server;
- (b) has previously had his certificate as a court broker or process server revoked under these Rules or any other law;
- (c) is a judge or magistrate in office or is employed in any capacity as an executive or officer of a court;
- (d) is a practising advocate;
- (e) is a Member of Parliament, a councilor or a

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person employed in the public service; or
(f) is of unsound mind.

(4) The Chief Justice may prescribe a number of court brokers and process servers to be certified by the Committee for a particular administrative region.

(5) A person appointed as a court broker under sub rule (1) shall be issued with a certificate in the format prescribed in Form 1 set out in the First Schedule to these Rules and signed by the Registrar.

(6) A certificate issued under sub rule (5), shall be valid for a term of one year and shall expire on the 31st day of January of each year.

(7) A person appointed as a process server under sub-rule (2) shall be issued with a certificate in the format prescribed in Form 2 set out in the First Schedule to these Rules and signed by the Registrar.

(8) Certificate under sub-rule (7) shall be valid for three years and shall expire on the 31st day of January of the third year.

(9) The Registrar shall maintain register of court broker and process server.

Applications for
appointment as
court broker and
process server

6.-(1) Any person who intends to be registered as a court broker or process server shall apply in writing to the secretary of the Committee through the Resident Magistrate in Charge of a region in which he wishes to practise as a court broker or process server.

(2) The application referred to under sub-rule (1), shall contain:-

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- (a) full names, place of business, postal address, email address, landline phone and mobile phone numbers of the applicant;
- (b) number, date and place of issue of the applicant's license to carry on the business as an auctioneer;
- (c) evidence on literacy and fluency in Kiswahili and English languages;
- (d) evidence by the applicant on ownership or possession of facilities for the safe storage of goods;
- (e) certificate of competence in the duties of a court broker issued by the Institute of Judicial Administration or any other institution recognized by the Committee;
- (f) the name of the applicant's banker, account number and the address of the branch at which his account is kept;
- (g) a bank statement covering a period of twelve months preceding the application;
- (h) a commitment in writing by the applicant that, if appointed, he shall secure and maintain a policy or policies of insurance covering goods in his custody against loss or destruction;
- (i) a bond with two sureties in the sum of four hundred million shillings; and
- (j) a certified copy of TIN certificate.

Provided that conditions provided under paragraphs (b), (d), (f),(g) and (h) shall not apply to an application to be appointed a process server.

(3) An application to be appointed as a court broker or process server shall be in triplicate prescribed in the format set out in Form 3 or Form 4 respectively in the First Schedule to these Rules.

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(4) The bond referred to under sub-rule (2)(h) shall be in the format prescribed in Form 5 set out in the First Schedule to these Rules and shall be valid for one year.

(5) The Committee shall process the application within a period of two months from the date of receipt of the application.

Duties and functions of court broker

7. The main function of a court broker shall be to execute court decrees or orders falling within his jurisdiction and shall include the following duties:-

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- (a) attachment and sale of the judgment debtor's property in execution of the court orders or decree as provided by Order XXI of the Civil Procedure Code Act and other written laws;
- (b) executing eviction orders;
- (c) executing any other order issued by the court;
- (d) preparing and filing returns on the manner executions were carried out to the court which issued the process; and
- (e) carrying out any other directions issued by the court.

Duties and functions of a process server

8. The main function of a process server shall be to serve judicial and extra-judicial documents and shall include serving:-

- (a) summonses, notices, copies of judgments, rulings, decree or orders;
- (b) notices of engagement to court brokers; and
- (c) any other documents issued by the court.

Clients' account

9. A court broker shall open and maintain a separate bank account for the moneys paid to him in the execution of court decrees, order or warrant.

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Conduct of court brokers or process servers

10.- (1) Every court broker and process server shall adhere to the Code of Conduct prescribed in the Second Schedule and Third Schedule to these Rules respectively.

(2) A court broker shall, when executing an order of the court:-

(a) abide by these Rules, Code of Conduct for Court Brokers, orders of the executing or superior court and such other directives as may be issued by the Chief Justice or the Committee; and

(b) maintain properly an account for proceeds of sale.

(3) A process server shall, when serving court process abide by these Rules, Code of Conduct for Process Servers and such other directives as may be issued by the Chief Justice or the Committee.

(4) A court broker and process server who contravenes sub-rules (2) and (3) respectively commits misconduct and shall be liable to revocation of his appointment or forfeiture of his bond or both.

Performance report

11.-(1) The Deputy Registrar and the Resident Magistrate in-charge of a region shall, at the end of every year submit to the secretary a confidential report on the performance, competence, suitability and conduct of the court brokers and process servers within the court's jurisdiction.

(2) For the purposes of sub-rule (1) the Deputy Registrar and a magistrate in charge shall, at least once in every year, inspect and evaluate the performance of each court broker and process server within his jurisdiction and make a report regarding the performance and conduct of such court broker and process server.

Time within

12.-(1) A court broker or process server may, not

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which to apply
for renewal of
certificate

earlier than three months and not later than one month from the expiry of his certificate, apply to the Committee for a renewal of his appointment by submitting an application to the Registrar through Resident Magistrate in-charge of a region as prescribed in the format set out in:-

- (a) Form 6 in case of a court broker of the First Schedule to these Rules; and
- (b) Form 7 in case of a process server of the First Schedule to these Rules;

Provided that application submitted after expiry of the certificate shall be considered upon showing good cause for the delay by affidavit.

(2) The Registrar shall, before submitting the names to the Committee for consideration of renewal, publish the names in the website and in any local newspapers, inviting opinions from members of the public as to the suitability of the applicants to perform duties of a court broker or process server.

(3) The Committee shall not renew a certificate if a court broker or a process server fails to submit a general auctioneer's licence or a business licence when applying for renewal of his certificate.

(4) The Registrar shall publish in the *gazette* or wide spread newspaper and in the website, names of the court brokers whose certificates have been renewed not later than the fourth week of February of each year.

Grounds for
refusing to
renewal

13.-(1) The Committee may revoke or refuse to renew a certificate of a court broker or process server where such court broker or process server:-

- (a) has breached the rules governing the discharge of his responsibilities;
- (b) has had his certificate as a court broker previously revoked;

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- (c) has been found guilty of misconduct;
- (d) has lost qualification for appointment as court broker or process server;
- (e) has a questionable moral or financial integrity;
or
- (f) cannot perform his duties due to ill-health or prolonged absence or other infirmities.
- (g) has been charged and convicted in court of a criminal offence for the offence relating to discharge of responsibilities of court broker or process server.

(2) A court broker or process server who qualifies for a renewal of certificate shall be issued with a new certificate upon paying a fee of:-

- (a) two hundred thousand shilling, in case of a court broker; and
- (b) twenty five thousand shillings, in case of a process server.

**PART III
DISCIPLINARY MEASURES**

Disciplinary
action taken.

14. The Committee may take disciplinary measures against a court broker or a process server where such court broker or process server acts unlawfully or oppressively, or in a manner incompatible with his status as an officer of the court or where it is proved to its satisfaction that the court broker or process server has acted in violation of these Rules.

Complaint

15. Any person who has a complaint against a court broker or process server may submit the complaint in writing to the Secretary.

Determination
of complaint

16.-(1) The secretary shall, within twenty one days upon receipt of the complaint, serve the court broker or the process server against whom the complaint is made with a

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copy of the complaint with directions to submit a reply to the complaint within twenty one days .

(2)The committee may, upon receipt of the complaint and reply thereto, deliberate whether to charge the court broker and process or the process server.

(3) Where charged a court broker or process server may be required to submit a reply within 14 days.

(4)The secretary shall fix a day of hearing of the charge as soon as practicable.

(2) A party may be represented by counsel of his own choice before a Committee.

Suspension of a court broker or process server

17.-(1) The Secretary may, with the approval of the Chairman of the Committee, suspend the appointment of a court broker or process server when disciplinary proceedings are taken or are likely to be taken against that court broker or process server.

(2) Where a court broker or a process server is suspended, the Secretary shall institute disciplinary proceedings against that court broker or process server before the Committee.

Disciplinary proceedings

18.-(1) The Committee shall regulate its own proceedings in accordance with the principles of natural justice.

(2) Upon hearing the disciplinary charges, the Committee may:-

(a) dismiss the charges; or

(b) uphold the charges and reprimand, suspend a court broker or a process server from conducting business for a period of not more than one year

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or revoke the appointment.

(3) The Committee shall take all reasonable steps to determine the disciplinary charges against a court broker or process server within a period or process server submitted his reply.

Effect of
revocation or
suspension of
certificate

19. Where a certificate is suspended, revoked or not renewed:-

- (a) in case of court broker, any property which came to his possession in the course of performance of his duties shall be returned forthwith to the appointing court which shall deal with it as it shall deem fit; and
- (b) in case of a process server, any court processes which came to his possession in the course of performance of his duties shall be returned forthwith to the appointing court which shall deal with it as it shall deem fit.

**PART IV
EXECUTION OF DECREES AND ORDERS**

Register of
executions

20. The executing court and court broker shall keep and maintain an updated register of all the executions containing particulars as prescribed in format set out in the First Schedule to these Rules:-

- (a) in the case of executing court, in Form 8; and
- (b) in the case of the court broker, in Form 9.

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Notice to
judgment debtor

21.-(1) The executing officer who has been issued with the warrant of attachment shall serve the judgment debtor with a notice of not less than fourteen working days to settle the decretal amount or comply with the decree or order as prescribed prior to the carrying out of the execution order in the format set out in Form 10 of the First Schedule.

(2) The executing officer shall, in case of an eviction order, serve the judgment debtor with a notice of not less than fourteen working days before eviction.

(3) No court decree or order of eviction from or demolition of a landed property shall be executed on a day other than a working day unless leave has been sought and granted by the executing court.

(4) Unless with a leave of the court, no warrant of attachment shall be executed between sunset and day break.

Compliance by
judgment debtor

22. Where the judgment debtor satisfies the decree or complies with the court order and pays any expenses incurred by the executing officer as assessed by the Registrar or magistrate within the period given by the executing officer under these Rules, the warrant or order shall cease to have legal effect.

Value of the
property to be
attached

23.-(1) The executing officer shall not, unless ordered by the court, attach property with a market value which exceeds the value of the decree plus the execution expenses permitted under these Rules by more than five per centum.

(2) Failure to comply with this rule shall be a misconduct which may be punished by cancellation of engagement granted under rule 18 or to such other disciplinary proceedings under these Rules.

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Submission of inventories

24.-(1) The executing officer shall, after attachment, submit a copy of attachment and an inventory showing the items attached and their value to the court issued the warrant of attachment.

(2) A copy of attachment and an inventory referred to under sub-rule (1) showing the value of the property attached shall be filed with the court and served on the parties to the execution proceedings and certificate of service thereof submitted to the court on the day following the attachment and if that day is not a working day on the next working day.

(3) Failure to comply with this rule shall be a misconduct which may be punished by cancellation of engagement granted under rule 18 and to such other disciplinary proceedings under these Rules.

Deposit of moneys paid in execution

25.-(1) The Court broker shall, deposit moneys paid in execution of the decree in the court's account or to the clients' account or transferred to the court's account on the date of its payment or if the date of payment is not a working day or payments were made after working hours, the amount so deposited or paid, shall be transferred to the court's account on the next working day.

(2) A court broker who fails to deposit or transfer the amount paid to him in execution of the decree within the specified time may be subjected to disciplinary proceedings.

(3) The court broker shall not sell attached property until he obtains an order for proclamation of sale.

(4) Every sale in execution of a court order shall be by public auction.

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Charges and
deposits in cases
of attachments
and orders for
sale

26.-(1) A judgment debtor shall pay the charges of the court broker but if the judgment debtor cannot be traced or has no property upon which costs of execution can be levied or a court has ordered the attached goods to be released and the judgment debtor is not blameworthy, then the decree holder shall pay those charges.

(2) Where an application to issue a warrant of attachment, order for sale or any other court process has been made, or a warrant, order or other process has been issued by the High Court or a court of resident magistrate or a district court, the Registrar or the Magistrate, may require the party applying for attachment, sale or other court process to deposit any sum which may be reasonable to meet the fees, charges and allowances payable under these Rules for the execution or service of the warrant, order or any other court process.

PART V
FEES AND EXPENSES

Fees and
charges of court
a brokers

27.-(1) Fees, charges and allowances prescribed in the Fourth Schedule to these Rules shall be payable for the execution of warrants of attachment and orders for sale issued by the High Court, a court of resident magistrate or district court.

(2) Without prejudice to sub-rule (1) where a warrant of attachment or order for sale is to be executed outside the geographical boundaries of any city, municipality or township or in any other special circumstances, the Registrar or magistrate may allow special fees, charges or allowances.

(3) Fees, charges and allowances payable under this

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rule shall be levied, determined and collected by the executing court and paid to the executing officer.

(4) For the purpose of sub-rule (3) the executing officer shall, not later than thirty days from the last date of hearing, file a bill of costs with the executing court and serve copies of the bill on all the parties and such court shall determine the amount payable after hearing the parties within fourteen days and deliver a ruling thereon.

(5) Charges and allowances of the executing officer in case of successful objection proceedings arising from the attached property shall be paid by the decree holder or any other person who pointed out the property.

Expenses of
attachment, etc.

28.-(1) The prescribed fees, charges and allowances shall, unless stated otherwise, be deemed to include all expenses of attachment, advertisement, sale, inventories, catalogues and necessary charges for safeguarding the property under attachment:

(2) Where an order for sale has been made and the sale is stopped or postponed or where execution is stayed by court order, the executing officer on application shall be entitled to receive all the expenses and charges which he has reasonably incurred.

(3) Notwithstanding the provisions of sub-rule (1), the executing officer shall be entitled to reimbursement, subject to the discretion of the Registrar or magistrate, of costs reasonably incurred for advertisement and security.

Special
provisions
regarding
livestock

29.-(1) Where property sought to be attached or sold is livestock, the court may, after hearing the parties and the executing officer, order for arrangement which provides for safe custody, feeding and transport of the livestock and for the fixing and payment of costs incurred.

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(2) The court shall have power to withdraw the warrant of attachment referred to under sub-rule (1) if it is of the opinion that no satisfactory arrangement for the safe custody, feeding and transport of livestock can be made between the executing officer and the decree holder.

Fees and charges for service of court processes

30.-(1) Fees and allowances in respect of service of court processes shall be in the amount specified in the Fifth Schedule to these Rules.

(2) Without prejudice to sub-rule (1), where a service of court process is to be effected outside the geographical boundaries of any city, municipality or township or in any other special circumstances, the Registrar or magistrate may allow special fees, charges or allowances.

(3) The fees, charges and allowances payable under this rule shall be determined by the court and:-

- (a) collected from a party on whose behalf the court process is effected and paid to the process server; or
- (b) caused to be paid to the process server by a party on whose behalf the court process is affected.

Public officer assigned as a court broker or process server

31. Where a public officer is assigned to perform duties of a court broker or process server, the fees, charges and allowances prescribed in the Fourth Schedule and Fifth Schedule to these Rules respectively to these Rules shall be levied and credited as court fees in addition to any other court fees payable.

Revocation
G.N. No. 315
of 1997

32. The Court Brokers and Process Servers (Appointment, Remuneration and Discipline) Rules, 1997 are hereby revoked.

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Saving
provisions

33 Any certificate made or issued to court brokers under the revoked Rules shall be deemed to have been issued under these Rules and shall remain valid until it expires or revoked as the case may be.

—————
FIRST SCHEDULE
—————

FORMS

FORM 1

CERTIFICATE OF APPOINTMENT OF A COURT BROKER

(Under rule 5 (5))

I,the Registrar/Deputy Registrar of the High Court of Tanzania, hereby certify that..... *(Insert name and details of Court Broker)* has been appointed a Court Broker for..... *(Insert region for which is appointed)* for the period of one year expiring on the 31st day of December.....

Dated at this day of 20.....

Seal

Registrar

FORM 2

CERTIFICATE OF APPOINTMENT OF A PROCESS SERVER

(Under rule 5 (7))

I,the Registrar/Deputy Registrar of the High Court of Tanzania, hereby certify that..... *(Insert name and details of process server)* has been appointed a Process Server for..... *(Insert area for which appointed)* for the period of three years.

Dated at this day of 20.....

Seal

Registrar

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FORM 3

APPLICATION FOR APPOINTMENT AS A COURT BROKER

(Under rule 6 (3))

To: The Registrar,
The High Court of Tanzania,
P. O. Box 9004,
Dar es Salaam.

Applicant's
Photograph

1.hereby apply to be
appointed a court broker for *(Insert full name and
region for which appointment is sought)*

2. I carry on the business ofat
..... and my contacts are-

- Physical
address.....;
- Place of
business.....;
- Postal
address/code.....;
- Email address
- Fax
Number.....;
- Cellular
Number.....;

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- Land line/Tel:
Number.....;
- Tax Identification
Number.....;
- National Identification Number (*where available*).....;

3. I hold a valid general auctioneer's licence issued aton theday of..... 20..... A certified copy of my general licence for the current year is annexed hereto.

4. I hold a valid business licence issued on Licence is attached hereto.

5. I speak, read and write the following languages fluently:

.....
.....

6. I have the following facilities for the safe storage of goods. (*Describe - the storage facilities, the address, size and type of construction of the warehouse*).....
.....

7. I have bank account number(s)..... and my banker(s) is/are (*Attach a bank statement for the past twelve months is attached*).

8. I hereby undertake that in the event of being appointed a court broker, I will maintain a policy or policies of insurance covering the goods which may from time to time be in my custody as such court broker against theft, damage and destruction by fire in the sum of not less than **Shs. 100,000,000/=** or such sum as you may direct and that I will, if and when called upon by you or a magistrate, produce for inspection the policy or policies of insurance and the current receipts for premiums paid.

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9. I hereby commit myself that upon my appointment I will open a client's account and submit particulars thereof to the Registrar within thirty days from the date of receipt of the certificate.

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

.....

Signature of Applicant

Present for filling on Day of 20.....

Signature of Registrar

FORM 4

APPLICATION FOR APPOINTMENT AS A PROCESS SERVER

(Under rule 6 (3))

To: The Registrar,



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Disciplinary)*

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The High Court of Tanzania,

P. O. Box 9004,

Dar es Salaam.

1.hereby apply for
appointment as a process server
for..... District (*Insert full
name and area for which appointment is sought*)

2. I undertake to obtain the business license as soon as I am appointed to be a process
server and my contacts are-

- Physical
address.....;
- Place of
business.....;
- Postal
address/code.....;
- Email address
- Fax
Number.....;
- Cellular
Number.....;
- Land line/Tel:
Number.....;
- Tax Identification
Number.....;
- National Identification Number (*where available*).....;

3. I speak, read and write the following languages fluently:

*Court Brokers and Process Servers (Appointment, Remuneration and
Disciplinary)*

GN. No. 363 (contd...)

.....
.....

3. I undertake to obtain a business licence as soon as I am appointed and submit a certified copy of the same to the Registrar.

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

.....
Signature of Applicant

FORM 5

BOND

(Made under rule 6(4))

Know all men by these presents that we,..... of
and.....of.....are jointly and severally bound to the Registrar of the High Court of Tanzania in the sum of Tanzanian shillings four hundred million to be paid to the Registrar or to his successor in office for the payment of which we bind ourselves and each of us and our heirs, executors, administrators and assigns.

1.(Insert name of applicant and his two sureties)
2.(Insert name of applicant and his two sureties)

Dated this day of 20.....

The condition of this obligation is that if the above-named.....
who has been selected for appointment as a court broker for the time shall at all times, well and truly perform and fulfill all the duties and obligations of a court broker in accordance with the rules and practice of the High Court of Tanzania or any court subordinate to it to which his appointment may relate, AND shall well and faithfully execute all the trusts reposed or which shall or may be reposed in him.
.....(Insert name of applicant)

AND in the case of any default or defaults we shall pay to the Registrar of the High Court for the use of the persons who may be entitled to it all moneys payable or

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chargeable to him for or in respect or in consequence of any default or defaults, then this obligation shall be void and of no effect or else shall remain in full force.

Signed and delivered by the within named:

.....

.....

in the presence of

NAME.....

giving bond)

SIGNATURE

COMMISSIONER FOR OATHS

}
.....
.....
(Signatures of persons

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GN. No. 363 (contd...)

FORM 6

APPLICATION FOR RENEWAL OF A CERTIFICATE AS A COURT BROKER
(Under rule 12 (1))



To: The Registrar,
The High Court of Tanzania

1.hereby apply for renewal of
a certificate as a Court Broker for
.....*(Insert full name and
area for which appointment is sought)*

2. I carry on the business ofat
..... and my contacts are-

- Physical
address.....;
- Place of
business.....;
- Postal
address/code.....;
- Email address
- Fax
Number.....;
- Cellular
Number.....;
- Land line/Tel:
Number.....;

Court Brokers and Process Servers (Appointment, Remuneration and Disciplinary)

GN. No. 363 (contd...)

- Tax Identification Number.....;
- National Identification Number (*where available*).....;
- 3. I hold a valid auctioneer's licence issued aton the day of..... 20.....My licence for the current year is annexed hereto.
- 4. I hold a valid business licence which expires on..... My licence is annexed hereto.

5. I speak and write the following languages fluently:

.....
.....

6. I have the following facilities for the safe storage of goods. (*Describe - the storage facilities, the address, size and type of construction of the warehouse*).....
.....

7. I have bank account number(s)..... and my banker(s) is/are
.....

8. I hereby undertake that in the event of being appointed a court broker, I will maintain a policy or policies of insurance covering the goods which may from time to time be in my custody as such court broker against theft, damage and destruction by fire in the sum of not less than Shs. 100,000,000/= or such sum as you may direct and that I will, if and when called upon by you or a magistrate, produce for inspection the policy or policies of insurance and the current receipts for premiums paid.

9. I have a client's account number.....and my bankers are.....

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

Signature of Applicant

Present for filling on..... Day of.....20.....

Signature of Registrar

Court Brokers and Process Servers (Appointment, Remuneration and Disciplinary)

GN. No. 363 (contd...)

FORM 7

APPLICATION FOR RENEWAL OF CERTIFICATE AS A PROCESS SERVER

(Under rule 12 (1))



To: The Registrar,
The High Court of Tanzania

1.hereby apply for renewal of a certificate as a Process Server for..... District *(Insert full name and area for which appointment is sought)*.

2. I undertake to obtain the business license as soon as I am appointed to be a Process Server and my address (es) are:-

- Place of business.....;
- Postal address/code.....;
- Email address/fax/mobile phone..... numbers.....;
- National Identification Number *(where available)*.....
- Tax Identification Number.....;

5. I had licences for past three years copies of which are attached. I undertake to obtain a business licence as soon as I am appointed and submit a certified copy of the same to the Registrar.

Dated at this day of 20.....

.....
Signature of Applicant

Court Brokers and Process Servers (Appointment, Remuneration and Disciplinary)

GN. No. 363 (contd...)

FORM 8
Court's Execution Register

(Under rule 20)

| SN | Parties | Assigned court broker | Description of properties | Estimated value | Date of attachment | Proclamation date | Date, time and place of auction | Successful bidder | Amount | Date money deposited in court | Date decree holder paid |
|----|---------|-----------------------|---------------------------|-----------------|--------------------|-------------------|---------------------------------|-------------------|--------|-------------------------------|-------------------------|
| | | | | | | | | | | | |
| | | | | | | | | | | | |
| | | | | | | | | | | | |

FORM 9

Court Broker's Execution Register
(Under Rule 20)

| SN | Parties | Description of property | Court issuing the order/decree | Date of attachment | Estimate value | Proclamation date | Date, time and place of Auction | Successful bidder | Date of deposits/ paying a decree holder |
|----|---------|-------------------------|--------------------------------|--------------------|----------------|-------------------|---------------------------------|-------------------|--|
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |

Court Brokers and Process Servers (Appointment, Remuneration and Disciplinary)

GN. No. 363 (contd...)

FORM 10

NOTICE TO SETTLE DECRETAL AMOUNT

(Under rule 21(1))

In the High/RM'S/District Court of

Civil Case No. of.....

..... Decree Holder

Versus.

..... Judgment Debtor

To:

Take notice that a warrant of attachment/order against you in respect of Civil Case No. of the High Court/RM's Court/District Court of

has been issued to me for execution. Notice is given to you to settle the decretal amount within fourteen working days of the service upon you of this notice, failure in which execution will proceed without further notice to you.

Presented on

Court Broker

I,..... judgment debtor in the above civil case acknowledge receipt of this notice.

Signature

Date

*Court Brokers and Process Servers (Appointment, Remuneration and
Disciplinary)*

GN. No. 363 (contd...)

SECOND SCHEDULE

(made under rule 10 (1))

CODE OF CONDUCT FOR COURT BROKERS

PREAMBLE

WHEREAS a fair and efficient system of enforcement of judgments and execution of court decrees, orders and warrants is essential to the administration of justice in a democratic society;

WHEREAS exemplary conduct by court brokers inspires public confidence and trust in the courts, and conveys the values of impartiality, equity, and fairness that bring integrity to the court's work;

AND WHEREAS court brokers are expected to adhere to a high standard of ethical behavior;

NOW THEREFORE, to advance these values and to achieve justice, this Code of Conduct for Court Brokers outlines ethical principles as hereunder:

DEFINITION

1. In this Code, unless context requires otherwise-

“court broker” has the meaning ascribed to it under rule 2 of the Court Practice and Procedure (Appointments, Remuneration, Discipline of Court Brokers and Process Servers) Rules, 2014.

APPLICATION

2. (1) This Code of Conduct shall apply to all court brokers in Mainland Tanzania.

Court Brokers and Process Servers (Appointment, Remuneration and Disciplinary)

GN. No. 363 (contd...)

- (2) This Code of Conduct shall supplement laws, rules and practices which govern activities of court brokers.

INTEGRITY

3. (1) Every court broker shall perform his functions and discharge his duties with integrity.
- (2) Every court broker shall demonstrate the highest standards of personal integrity in all his/her work and personal dealings, avoiding the misuse of property, court time, equipment, supplies or facilities for personal ends.
- (3) Every court broker shall refrain from any actual impropriety, such as violating the law, soliciting funds on the job, receiving gifts or favours related to court employment, giving presents and gifts to any officer of the court for purposes of obtaining any present or future favours, accepting outside engagement that conflicts with the court broker's duties, or using position to benefit himself, friends, or relatives.
- (4) Every court broker shall avoid any appearance of impropriety that might diminish the integrity and dignity of the court.

HONESTY

4. (1) Every court broker shall be honest and candid when discharging official duties.
- (2) Every court broker shall provide accurate information to the court and to all those affected by his/her work as requested in a competent, courteous, and timely manner.
- (3) Every court broker shall not intentionally mislead or attempt to mislead any member of public during the course of his duties.

Court Brokers and Process Servers (Appointment, Remuneration and Disciplinary)

GN. No. 363 (contd...)

- (4) Every court broker shall refrain from acting in matters in which he or she holds an interest or in matters that concern his immediate family, relative or friend.
- (5) Every court broker shall not act as an attorney, agent or advisor to any party to any court proceeding or give advice in any legal matter.
- (6) Every court broker shall not misrepresent his powers, qualifications, capacities, experience or abilities.

COMPETENCE

5. (1) Every court broker has a duty to the court and the public to perform functions and discharge assigned duties in a competent manner.
- (2) Every court broker is obliged and expected to handle matters without undue delay, risk or unnecessary expense.
- (3) Every court broker shall ensure that all agents, employees and contractors under his/her supervision or direction are provided with appropriate training to ensure that they, at all times act within the scope of the law.
- (4) Every court broker shall undergo periodic continuous education to improve performance.

QUALITY OF SERVICE

6. (1) Every court broker has a duty to serve the court and the public in a conscientious, diligent and efficient manner in order to provide quality service.
- (2) Every court broker shall serve the public by providing accurate information about the attachment, execution of decrees and other court processes that is as helpful as possible without taking one side over the other, or appearing to favour one side of a case.
- (3) Every court broker shall provide responsible, transparent and accountable stewardship of properties which he/she handles during the executing processes.

*Court Brokers and Process Servers (Appointment, Remuneration and
Disciplinary)*

GN. No. 363 (contd...)

- (4) Every court broker shall guard against and, when necessary, repudiate any act of discrimination or bias based on race, religion, colour, gender, national origin, ancestry, physical or mental disability, medical condition, or marital status.
- (5) Every court broker shall behave towards all persons with respect, courtesy, patience, and responsiveness, acting always to promote public esteem in the court system.
- (6) Every court broker shall ensure that goods are handled with reasonable care so that they do not suffer any damage whilst in his/her possession and where damage so occurs assist in the recovery of insurance claim.

CONFIDENTIALITY

7. Every court broker shall safeguard confidential information, both written and oral, unless disclosure is authorized by the court, refusing ever to use such information for personal advantage, and abstain at all times from public comment about pending court proceedings, except for strictly procedural matters.

VULNERABILITY, PRIVACY AND MODESTY

8. (1) Every court broker has a duty to respect the vulnerable and the privacy and modesty of a woman.
- (2) Although not exhaustive, every court broker shall recognize the following groups as being potentially vulnerable and treat them with special care:
 - i. the elderly;
 - ii. people with a disability;
 - iii. the seriously ill;
 - iv. the recently bereaved;
 - v. pregnant women.

*Court Brokers and Process Servers (Appointment, Remuneration and
Disciplinary)*

GN. No. 363 (contd...)

- (3) Every court broker shall in carrying out his duties, refrain from acting in a manner which would embarrass, humiliate or offend any individual.

HAZARDOUS AND AGGRESSIVE SITUATIONS

9. Every court broker shall recognize and avoid potentially hazardous and aggressive situations and withdraw when in doubt about his/her own or other's safety.

COLLEGIALITY

10. Court brokers will cultivate within themselves ethical judgment that will foster collegiality and cooperation.

—————
THIRD SCHEDULE
—————

(Under rule 10(1))

CODE OF CONDUCT FOR PROCESS SERVERS

PREAMBLE

WHEREAS the service of court processes is an integral part of expeditious administration of justice;

WHEREAS the administration of justice depends on process service system that is efficient, ethical and professional;

AND WHEREAS it is desirous to promote public confidence and trust in the courts by ensuring that process servers perform their work professionally, honestly and expeditiously;

*Court Brokers and Process Servers (Appointment, Remuneration and
Disciplinary)*

GN. No. 363 (contd...)

NOW THEREFORE, this Code of Conduct for Process Servers sets out ethical principles to be adhered to by process servers as hereinunder:

DEFINITION

1. In this Code, unless the context requires otherwise–
 “**process server**” has the meaning ascribed to it under rule 2 of the Court Practice and Procedure (Appointments, Remuneration, Discipline of Court Brokers and Process Servers) Rules, 2014.

APPLICATION

2. (1) This Code of Conduct shall apply to all process servers in Mainland Tanzania.
(2) This Code of Conduct shall supplement laws, rules and practices which govern activities of process servers.

INTEGRITY

3. (1) Every process server shall demonstrate the highest standards of personal integrity in all their work and in his dealings, avoiding the misuse of property, court time, equipment, supplies, or facilities for personal ends.
(2) Every process server shall stand behind and defend his/her work as may be required from time to time including providing affidavits, appearing in court to testify.
(3) No process server shall allow another person to sign a return of service or affidavit of service or other document attesting to the facts of service (“proof of service”) on his behalf.
(3) No process server shall knowingly or intentionally prepare or file a false proof of service.
(4) Whenever attestation is required on a proof of service, process servers shall always sign in the physical presence of a commissioner for oaths after taking an oath or affirmation.

Court Brokers and Process Servers (Appointment, Remuneration and Disciplinary)

GN. No. 363 (contd...)

HONESTY

4. (1) Every process server shall not misrepresent their powers, qualifications, capacities, experience or abilities.
- (2) Every process server shall provide accurate information to the court and to all those affected by their work as requested in a competent, courteous, and timely manner.
- (3) Every process server shall owe a duty of professionalism, honesty, and candor to the party for whom process is being served and also to the party being served.
- (4) Every process server shall be honest and truthful in all dealings with all persons while engaged in any activity related to the service of process.
- (5) Every process server shall refrain from acting in matters in which he or she holds an interest or in matters that concern his immediate family, relative or friend.

COMPETENCE

5. (1) Every process server has a duty to the court and the public to perform functions and discharge duties in a competent manner.
- (2) Every process server shall demonstrate adequate skills and knowledge in performance of his the work and seek training opportunities to maintain professional competency and growth and sufficient communication skills.
- (3) Every process server has an obligation to acquire knowledge and keep abreast of current laws and rules regarding the service of process.

QUALITY OF SERVICES

6. (1) Every process server has a duty to serve the court and the public in a conscientious, diligent and efficient manner in order to provide quality service.
- (2) Every process server shall keep the client reasonably informed about the status of the service and promptly comply with reasonable requests.
- (3) Every process server shall ensure all affidavits and certificates he/she prepares are complete, accurate understandable and timely filed with the court.

Court Brokers and Process Servers (Appointment, Remuneration and Disciplinary)

GN. No. 363 (contd...)

- (4) Every process server shall handle all legal documents with care and maintain required records in an organized, professional manner.
- (5) No process server shall violate all any rules or conduct themselves in a manner that would impact adversely on the judiciary, the courts, or other agencies involved in the administration of justice.
- (6) Every process server shall observe the protocol for service of process in any building or place before proceeding with service and shall take appropriate steps to avoid impairing security, or creating a security issue or interfering with any formal proceedings.

CONFIDENTIALITY

7. (1) No process server shall utilize his position in any manner to gain access to information for personal interest.
- (2) Every process server shall safeguard confidential information, both written and oral, unless disclosure is authorized by the court, refusing ever to use such information for personal advantage, and abstain at all times from public comment about pending court proceedings, except for strictly procedural matters.

VULNERABILITY, PRIVACY AND MODESTY

8. (1) Every process server has a duty to respect the vulnerable and the privacy and modesty of a woman.
- (2) Although not exhaustive, every process server shall recognize the following groups as being potentially vulnerable and treat them with special care:
 - i. the elderly;
 - ii. people with a disability;
 - iii. the seriously ill;
 - iv. the recently bereaved;
 - v. pregnant women.

*Court Brokers and Process Servers (Appointment, Remuneration and
Disciplinary)*

GN. No. 363 (contd...)

- (3) Every process server shall, in carrying out his/her duties, refrain from acting in a manner which would embarrass, humiliate or offend any individual.

HAZARDOUS AND AGGRESSIVE SITUATIONS

- (4) Every process server shall recognize and avoid potentially hazardous and aggressive situations and withdraw when in doubt about his/her own or other's safety.
- (5) Where a process server who withdraws shall immediately report to the court for directions.

COLLEGIALITY

9. Process servers shall cultivate within themselves ethical judgment that will foster collegiality and cooperation.

*Court Brokers and Process Servers (Appointment, Remuneration and
Disciplinary)*

GN. No. 363 (contd...)

FOURTH SCHEDULE

(Made under rule 31)

| Item no. | | Fee payable |
|------------------------------|--|--|
| PART I ATTACHMENT | | |
| 1. | For attaching or taking possession of movable property and keeping possession of the same for 30 days or part thereof when the estimated value of the property (in accordance) with the executing officer's inventory furnished under rule (6)- or the decretal amount whichever is less. | |
| | (a) does not exceed Tshs. 5 Million | 10% |
| | (b) exceeds Tshs. 5 Million | Tshs. 500,000/= plus 3% of the amount above Tshs. 5 million provided that the amount payable shall not exceed Tshs. 10,000,000/= |
| | Provided further that where it is considered necessary to hold the property for a longer period, the executing officer shall, in addition to the fee calculated on the basis of the above schedule be reimbursed for the additional costs/expenses which in the opinion of the Registrar or Magistrate were properly incurred. | |
| 2. | For attaching immovable property where the amount of the decree in execution of which the property is attached:- | 3% of decretal amount provided that the amount payable shall not exceed Tshs 1,500,000/= |

Court Brokers and Process Servers (Appointment, Remuneration and Disciplinary)

GN. No. 363 (contd...)

| | | |
|--------------------|---|---|
| 3. | For attending to attach or take possession of movable property, where no property is found after diligent inquiries the executing officer shall be paid Tshs. 200,000/= and be reimbursed for actual expenses incurred in the exercise. | |
| PART 11 STORAGE | | |
| 4. | Where the property so attached is sold the Court Broker shall not be entitled to storage fees after sale. | |
| 5. | Where the property attached is released, the court broker shall be entitled to, in addition to attachment fees, storage costs as follows- | |
| | (a) for the first 30 days or any part thereof. | Nil |
| | (b) for any further period with leave of the court. | As may be determined by the Registrar or magistrate. |
| SALE | | |
| 6. | For selling movable property where the amount realized does not- a) exceed Tshs. 5 Million. exceed Tshs. 5 million | 10% Tshs. 500,000/= plus 7% of the amount above Tshs. 5 million provided that the amount payable shall not exceed 10,000,000/= |
| 8. | For selling immovable property; a) where the amount realized does not exceed Tshs. 5 Million | 10% |
| | Where the value realized exceeds Tshs. 5 Million | Tshs. 500,000 Plus 7% provided the amount payable shall not exceed |

Court Brokers and Process Servers (Appointment, Remuneration and Disciplinary)

GN. No. 363 (contd...)

| | | |
|-----|--|--------------------|
| | | Tshs. 10,000,000/= |
| | EVICTION | |
| 10. | For gaining entry | Tshs. 200,000/= |
| 11. | For evicting from each room (bathroom and toilets not included) | Tshs. 150,000/= |
| | For purposes of item 11, where the eviction is done in a self-contained house, the sitting room, dining room and kitchen shall be deemed to be rooms of equal size and the fees shall be the same. | |

FIFTH SCHEDULE

(Made under rule 31)

| Item no. | Item | Amount |
|----------|--|---|
| 1. | For personal service of a court processes, on each intended party within the limits of the city, municipality or township. | Tshs. 50,000/= |
| 2. | For Personal service of a court processes, for each intended party outside the limits of the city, municipality or township. | Tshs. 50,000/= in addition to public transport costs and daily subsistence allowance paid at the lowest government's per diem allowance rate. |
| 3. | For filing an affidavit of services | Tshs. 20,000/= |

Dar es Salaam,
31ST AUGUST, 2017

IBRAHIM HAMIS JUMA,
Ag. Chief Justice