

LEGAL NOTICE No. **XXX**

THE WATER ACT, 2016

(No. 43 OF 2016)

IN EXERCISE of the powers conferred by section 122 of the Water Act, 2016 the Tribunal hereby makes the following Rules:-

WATER TRIBUNAL RULES, 2019

ARRANGEMENT OF RULES

PART 1 PRELIMINARY

Citation	1. These Rules may be cited as the Water Tribunal Rules, 2019
Interpretation	2. In these Rules, unless the context otherwise requires –
No 43 of 2016	“Act” means the Water Act, 2016;
Chapter 16	“Advocate” means an “advocate” under the Advocates Act;
	“appellant” means a person who makes an appeal to the Water Tribunal under section 121 of the Act, and includes a duly authorised agent or legal representative of that person;
	“Chairman” means the person appointed under section 119 (2) of the Act or acting as Chairman of the Water Tribunal pursuant to rule 38 below;
	“disputed decision” means a decision or order of the Cabinet Secretary, the Authority and Regulatory Board or of any other person acting under the authority of the Cabinet Secretary, the Authority and Regulatory Board, against which an appeal is brought under these Rules, and includes a failure or refusal to make a decision by the Cabinet Secretary, the Authority and Regulatory Board.
	“hearing” means sitting of the Water Tribunal for the purpose of enabling the Tribunal to reach or announce a decision, other than such a sitting in exercise of the power to determine an appeal without an oral hearing;
	“member” means a member of the Water Tribunal as appointed under section xxx of the Act;

“party” in relation to an appeal, includes the appellant, Cabinet Secretary, the Authority, the Regulatory Board and any person joined to the proceedings as an appellant, or a respondent or an intervener;

“register” means the register of appeals and decisions kept in accordance with these Rules;

“respondent” in relation to any proceedings before the Water Tribunal means the Cabinet Secretary, the Authority, and Regulatory Board or any other party to the proceedings other than the Appellant.

“Secretary” means secretary to the Tribunal appointed under section 120 of the Act responsible for the day to day running of the secretariat of the Water Tribunal;

“Tribunal” means the Water Tribunal established by section 119 of the under the Act;

PART II – APPEALS TO THE WATER TRIBUNAL

- Appeals 3. (a) Any person who is aggrieved by any determination, decision or order of the Cabinet Secretary, the Authority and Regulatory Board or officers as specified in section 121 (1) of the Act may appeal to the Water Tribunal in accordance with these Rules.
- (b) A party to a business or commercial contract may, unless the business or commercial contract between the parties provides for disputes to be resolved using an alternative dispute resolution mechanism, submit a dispute arising in regard to the contract to the Tribunal for determination pursuant to section 121(2) of the Act.
- Appeals to the ELC 4. Appeals from the decision or determination of the Tribunal to the Environment and Land Court shall be filed in accordance with the applicable rules of procedure of that court.
- Form of Appeal 5 (a) An appeal to the Tribunal shall be commenced by filing with the Tribunal a written notice and, where the Tribunal has approved a form of notice for this purpose, in the form so approved;
- (b) The appellant shall cause an original and not less than four (4) counterparts, or where the parties to the appeal exceed two (2), such number of counterparts as is sufficient to enable each party to the appeal to be served with one counterpart, of the appeal to be delivered to the Tribunal so as to reach it not later than thirty (30) days after the date on which the disputed decision or order was served upon him;
- (c) An appeal shall comprise –
- (i) the notice, which shall state the name and address of the appellant(s) or his Advocate and any respondents who are named in the notice;

(ii) a summary of the disputed decision or, in the case of a business or commercial contract, a brief background to the dispute;

(iii) the grounds of the appellant's dissatisfaction with the decision or order which is the subject of the appeal or in the case of a business or commercial contract, the issues in dispute; and

(iv) supporting documents, if any, to be relied upon in the appeal.

(d) The appellant, his Advocate or duly authorised agent shall sign the notice of appeal.

(e) The Tribunal shall duly acknowledge receipt of the appeal by stamping an acknowledgement on the original and each counterpart of the notice and, where fees for filing of appeals have been prescribed, require the appellant or his representative to pay the prescribed fees to enable the Tribunal admit the appeal.

(f) The Tribunal may decline to admit an appeal which is not filed in the prescribed form or in respect to which prescribed fees have not been paid.

Registration of

6. (1) Upon receipt of the appeal, the Tribunal shall –

Appeal

(a) enter the particulars of the appeal in a register kept by the Tribunal for the purpose;

(b) assign an appeal number to the appeal; and

(c) retain the original and three counterparts of the appeal and issue to the appellant the remaining counterparts to enable the appellant serve one counterpart on each party to the appeal;

(2) The Tribunal may, on request of a party and upon payment of prescribed fees, serve the appeal and any reply together with amendments or supplementary statements, written representation or other documents received from any party, on all other parties to the proceedings and, if any person or body is subsequently joined as party, upon that person or body;

Application of

7. The Tribunal may for good reason shown, on application, extend the

Extension of Time

time appointed by these Rules (not being a time limited by the Act) for doing any act or taking any proceedings and may do so upon such terms and conditions if any, as appear to it just and expedient.

Documents

8. (a) A party to an appeal shall deliver to the Tribunal with his appeal or reply, or within such period as may be directed by the Tribunal, a copy of every document upon which he intends to rely on for purposes of his appeal or reply.

Provided that where any such document is already in the possession of the Tribunal or the party or parties to the proceedings, the Tribunal may, on such terms as it thinks fit, excuse a party from the provisions of this rule.

(b) If any document required to be delivered to the Tribunal under this rule, in the opinion of the party who has possession of the document, relates to his intimate, personal or financial circumstances or is commercially sensitive and the person concerned seeks to restrict its disclosure, he shall inform the Tribunal of that fact and of his reasons for seeking such a restriction whereupon the Tribunal shall give directions on the manner and extent of disclosure.

Preliminary Objections 9. (a) Any objection to the jurisdiction of the Tribunal or to the

admissibility of an appeal or other objection including, in the case of a commercial or business contract, an objection that the business or commercial contract in respect to which there is a dispute is subject to alternative dispute resolution, shall be made to the Tribunal in writing as soon as is reasonably practicable and in any case before the hearing of the appeal commences.

(b) On receipt of any preliminary objection, the Tribunal shall not commence hearing the appeal on merit but shall direct the parties to file written submissions on the objection within such time as the Tribunal directs.

(c) The Tribunal shall as soon as practicable thereafter either hear oral submissions on the objection before determining the objection or decide to determine the objection without hearing oral submissions on it.

Amendment of Appeal and Delivery of Supplementary Grounds of Appeal

10. (a) The appellant may, at any time before the parties are notified of the date of hearing of the appeal, amend his notice of appeal or any statement of grounds of appeal or deliver to the Tribunal a supplementary statement of grounds of appeal.

(b) The appellant may, with leave of the Tribunal, amend any notice of appeal or statement of grounds of appeal at any time after the parties have been notified of the date of the hearing of the appeal or at the hearing itself.

(c) The Tribunal may grant such leave to amend the notice or statement on such terms as it thinks fit.

(d) The appellant shall file with the Tribunal the original and four counterparts of any amendment or supplementary notice or grounds together with such additional number of counterparts as are sufficient to enable each party to the appeal to be served with one counterpart, and

immediately thereafter or within such time as the Tribunal may direct, serve on the respondent or any other party to the proceedings, a duly stamped counterpart of every amendment and supplementary statement or grounds.

Withdrawal and suspension of appeal

11. (a) The appellant may withdraw an appeal at any time before the appeal is served on parties who are named in the notice of appeal.

(b) The appellant may, with the leave of the Tribunal and upon such terms as to costs or otherwise as the Tribunal may direct, at any time after service of the appeal on the parties named in the notice of the appeal but before delivery of the decision, withdraw the appeal whereupon the appeal shall be marked as withdrawn or settled by consent of the parties.

(c) Upon the request of the parties or on its own motion the Tribunal may suspend hearing the appeal on such terms as it may direct to enable parties pursue alternative dispute resolution.

(d) Where an appeal is withdrawn or settled pursuant to this rule, no appeal shall be entertained by the Tribunal in relation to the same decision unless the Tribunal, for good reason shown, otherwise determines.

Additional matters 12. The appellant may include in his notice of appeal, or in a separate application to the Tribunal any of the following –

- a) A request for an urgent hearing of the appeal, and the reasons for that request;
- b) A notification that, at the hearing of his appeal he intends to call an expert witness or witnesses and the name and address and description of the field of expertise of each such proposed witness;
- c) A request that a particular expert, if any, who provided input into the disputed decision, or into the business or commercial contract as the case may be, shall attend the hearing of the appeal and give evidence; and or
- d) A request for a site visit before the appeal is determined.

PART III – REPLY

Action by respondent 13. (a) Upon receipt of a counterpart of the appeal the respondent shall deliver to the Tribunal, within fifteen (15) days, a written reply which shall comprise –

- (i) the grounds and documents if any on which it relies in opposing the appeal; and
- (ii) If, in the opinion of the respondent, any other person has a direct interest in the subject matter of the appeal and to be made a party,

the name and address of such other person and the nature of interest.

(b) Subject to rule 8, the respondent shall deliver to the Tribunal the original and four counterparts and such additional number of counterparts of the reply as are sufficient to enable the Respondent serve one stamped counterpart on each party to the appeal, including persons named by the respondent as having sufficient interest in the appeal to be made a party.

(c) In its reply or in a separate notice to the Tribunal, the respondent may request –

(i) further and better particulars of the appeal; or

(ii) a determination of any question as a preliminary issue.

(e) every reply by the Cabinet Secretary, Authority or Regulatory Board shall be signed by a person duly authorised by the Cabinet Secretary or CEO as the case may be.

(f) The Tribunal may, for good cause shown, extend the time for filing a reply.

Amendment of reply 14. (a) The respondent may, at any time before it is notified of the date of hearing of the appeal, amend its reply or deliver a supplementary statement by way of reply.

(b) The respondent may with the leave of the Tribunal, and on such terms as the Tribunal may direct, amend its reply at any time after it has been notified of the date of the hearing of the appeal or in the course of the hearing but before the decision of the Tribunal.

PART IV – THIRD PARTIES

Joinder of parties 15. If it appears to the Tribunal, whether on the application of a party or on its own motion, that it is desirable that any person be made a party to the proceedings, the Tribunal may order such person to be joined as a party either as a respondent or as an interested party and may give such directions relating thereto as may be just, including directions as to the delivery and service of documents.

Appearance and Representation

16. A party to the proceedings before the Tribunal may appear in person or be represented by an Advocate before the Tribunal.

PART V – HEARING

Directions 17. (a) The Tribunal may at any time, on the application of a party or of its own motion, give such directions (including directions for the furnishing of further particulars or production of documents) as are

necessary to enable parties prepare for the hearing or to assist the Tribunal to determine the issues in dispute.

(b) No person shall be compelled to give any evidence or produce any document or other material that he could not be compelled to give or produce in a in a court of law.

(c) In exercising the powers conferred by this rule the Tribunal shall take into account the need to protect any matter that relates to intimate personal or financial circumstances, is commercially sensitive, and consists of information communicated or obtained in confidence

(4) An application by a party for directions shall be made in writing to the Tribunal or, with leave of the Tribunal orally and, unless it is accompanied by the written consent of all the parties, shall be served by the Tribunal on any other party who might be affected by such directions.

(5) If any party objects to the directions sought, the Tribunal shall consider the objection and, if it considers it necessary for the determination of the application, shall give the parties an opportunity to address it orally on the application.

Failure to comply with directions.

18. If any directions given to a party under this part of these rules are not complied with by such a party, the Tribunal may, in addition to other powers available to it before or at the hearing, dismiss the whole or part or the appeal or, as the case may be, strike out the whole or part of the appeal or, as the case may be, strike out the whole or part of a respondent's reply and, where appropriate, direct that a party shall be debarred from participating in the appeal altogether:

Provided that the Tribunal shall not so dismiss or strike out or give such a direction unless it has sent notice to the party who has not complied with the direction giving him an opportunity to show cause why the Tribunal should not do so.

Varying or setting aside directions.

19. Where a person to whom a direction (including a summons) is addressed had no opportunity of objecting to the making of such direction, he may apply to the Tribunal to vary it or set it aside, but the Tribunal shall not do so without notifying the person who applied for the directions and considering any representations made by him.

Subpoenas and orders

20. (a) A person to be summoned to attend and give evidence shall be given at least seven (7) days' notice of the hearing unless he consents to shorter notice being given.

(b) No person, other than the appellant or respondent shall be required in obedience to a summons to attend and give evidence or to produce any document except on the undertaking that the necessary expenses of his attendance will be paid or tendered to him.

Hearing notice

21 (a) The Tribunal shall fix the date, time and place of the oral hearing, and send to each party notice of the hearing which shall include a statement on:

- (i) The date, time and place of the oral hearing;
- (ii) the possible consequences of non-attendance; and
- (iii) the right of an appellant, and of any respondent who notifies the Tribunal that he will not attend, or be represented at, the hearing to make representations in writing.

(b) The Tribunal may, either on its own motion or at the request of one or more of the Parties change the date, time and or place of any oral hearing and shall give the parties notice of any such change.

(c) In fixing the date, time and place of the oral hearing the Tribunal shall take account of the availability and convenience of the Parties and witnesses and the need wherever practicable to hold an oral hearing in close proximity to the location of the dispute.

(d) The Tribunal may from time to time, on its own motion or on application made before it, adjourn the oral hearing and, if the time and place of the adjourned hearing are announced in the presence of the parties during the hearing no further notice shall be required.

(e) Subject to this rule, the Tribunal may, if it thinks fit to do so, visit any site and may hold an oral hearing at such site on the day of such visit provided that the Tribunal gives the parties an opportunity to be present at the site visit.

Business hours

22. The Tribunal shall transact business from Monday to Friday of every week, except on official public holidays, with official business hours as follows:

- (a) 8.00 a.m. to 1. 00 p.m. and
- (b) 2.00 p.m. to 5.00 p.m.

Public notice of hearings

23. The list of a list of all appeals in respect of which an oral hearing is to be held and of the time and place fixed for the hearing shall be

available for public inspection at the principal office of the Tribunal and at the place where a hearing is held and shall be posted on the Tribunal's website before the date fixed for the oral hearing.

Hearing to be public

24. (a) Oral hearings shall be conducted in public but the Tribunal may for good cause direct that an oral hearing or some aspect of it shall be held *in camera*.

(b) The Tribunal may exclude from the hearing or part of it, any person whose conduct has disrupted or is likely, in the opinion of the Tribunal, to disrupt the hearing or whose presence at the hearing is in the opinion of the Tribunal undesirable.

(c) Where the Tribunal decides to hold an oral hearing or a part of it *in camera* or excludes a person from being present at an oral hearing the tribunal shall record its reasons for the decision.

Failure of parties to attend hearing

25. (a) If a party fails to attend or be represented at a hearing which has been duly notified the Tribunal may-

- (i) unless it is satisfied that there is sufficient reason for such absence, hear and determine the appeal in the party's absence; or
- (ii) adjourn the hearing,

and may in either event make such order as to costs and expenses as it deems fit.

(b) Before determining any appeal in the absence of a party, the Tribunal shall consider any representations in writing submitted by that party in response to the notice of hearing and, for the purpose of this rule, the appeal and any reply shall be treated as representations in writing.

(3) Where an appellant has failed to attend a hearing of which he was duly notified, and the Tribunal has made a determination of the appeal, no fresh appeal may be made by the appellant to the Tribunal against the same disputed decision or, in the case of a business or commercial contract, in respect to the same issue in dispute, without the prior leave of the Tribunal.

Quorum and procedure at hearings:

26. (a) The quorum at the oral hearing of an appeal shall be the Chairman or other person acting as Chairman and two other members.

(b) At the beginning of the hearing the Chairman shall explain the order of proceeding which the Tribunal proposes to adopt.

(b) Subject to this rule, the Tribunal shall conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the appeal and shall, so far as appears to it appropriate, seek to avoid legal technicality and formality in its proceedings.

(d) The parties shall be heard in such order as the Tribunal shall determine, and shall be entitled to give evidence, to call witness, to question any witness and to address the Tribunal both on the evidence and generally on the subject matter of appeal.

(e) Evidence before the Tribunal may be given orally or, if the Tribunal so orders, by affidavit or written statement, but the Tribunal may at any stage of the proceedings require the personal attendance of any deponent or author of a written statement.

(f) The Tribunal may, if it is satisfied that it is just and reasonable to do so, permit a party to rely on grounds not stated in the notice of appeal or, as the case may be, his reply and to adduce any evidence not presented to the Cabinet Secretary, the Authority or the Board before or at the time it took the disputed decision provided that the respondent is given an adequate opportunity to respond to the grounds or evidence.

(g) The Tribunal may require any witness to give evidence on oath or affirmation and for that purpose it may administer an oath or affirmation in due form.

Judicial notice

27. The Tribunal may take judicial notice of and or rely on—

- (i) facts that are publicly known that may be judicially noticed by a court of law; and or
- (ii) any information, opinion, policy, rule or court decision that is within its specialized knowledge

Provided that the Tribunal shall give the parties an opportunity to make representations on such fact, information, opinion, policy, rule or court decision before taking judicial notice of or relying on it.

Determination of interlocutory matters

28. (a) Interlocutory matters arising in the course of proceedings before the Tribunal may be determined by the Chairman or a legally qualified member sitting alone.

(c) A decision of the Chairman or member sitting alone on an interlocutory matter shall be subject to review by the Tribunal on an application by a party to the appeal.

Opportunity to be heard or cross-examine

29. The Tribunal shall grant to any party –

(a) a reasonable opportunity to be heard, to submit evidence and make representations; and

(iii) a reasonable opportunity to cross-examine witnesses, to the extent necessary to ensure a fair hearing.

Change of advocate

30. (a) At any stage of the proceedings a party represented by an advocate may change his advocate, a party acting in person may choose to act by an advocate and a party previously represented by an Advocate may choose to act in person.

(b) Notice of the change of Advocate, notice to be represented by an Advocate and notice to act in person shall be filed with the Tribunal together with a sufficient number of counterparts to enable service of one counterpart on each party to the appeal.

PART VI – DETERMINATION OF APPEAL

Failure to reply and no contest.

31. If-

No reply is received by the Tribunal within fifteen (15) days or such longer time as the Tribunal may allow; or

(i) the respondent states in writing that it does not resist the appeal, or in writing withdraws its opposition to the appeal

(ii) and if there is no other subsisting opposition to that appeal, the Tribunal may determine the appeal on the basis of the notice and grounds of appeal without proceeding to a hearing.

Preliminary Issues

32. (a) The Tribunal may order any question of law or fact which is in issue in the appeal to be determined at a preliminary hearing.

(b) If, in the opinion of the Tribunal, the determination of that question disposes of the whole appeal, the Tribunal may treat the preliminary hearing as the hearing of the appeal and may make such order by way of disposing of the appeal as the Tribunal thinks fit.

(d) If the parties so agree in writing, the Tribunal may determine the question without an oral hearing but, in any such case, the Tribunal may not at the same time dispose of the appeal unless the parties have also agreed in writing that it may do so and have had an opportunity of making representations in writing.

(e) The decision of the Tribunal in relation to a preliminary issue may be given orally at the end of the hearing, or may be reserved, but in either event (and whether there has been a hearing on preliminary issue or not) shall be recorded forthwith in a document which shall

also contain a statement of reasons for its decision, and which shall be signed and dated by the Chairman and all members of the Tribunal taking part in the hearing.

- (f) The Tribunal provide a copy of the decision on the preliminary issue to each party.

Power to determine appeal 33. (1) The Tribunal may, by consent in writing by all parties to an appeal, determine the appeal, or any particular issue, without an oral hearing.

Consolidation of appeals 34. The Tribunal may, in its discretion and after giving the parties an opportunity to be heard, order the consolidation of the hearing of any appeal before it, where notices of appeal have been given in respect of the same matter or in respect of several interests in the same subject in dispute or which involve the same issue.

Decision of Tribunal 35. (a) A decision of the Tribunal may be taken by a majority and the decision shall record whether it is unanimous or taken by majority.

(b) The decision of the Tribunal may be given orally at the end of the hearing or may be reserved and, in either event (and whether there has been a hearing or not) shall be reduced into writing and, save in the case of a decision by consent, shall also contain a statement of the reasons for the decision, and shall be signed and dated by the chairman and every member who heard the matter.

Provided that a dissenting decision may be pronounced separately by any member who wrote it and shall be dated and signed by such member.

- (c) Subject to paragraph (d), every decision shall be made available to the parties to the appeal.
- (d) Where any such decision refers to any evidence that has been heard *in camera*, only a redacted decision, omitting such material, shall be made publicly available, but copies of the complete decision shall be provided to the parties together with a copy of the redacted decision.
- (e) The decision shall contain a notification indicating the right of the parties under section 124 of the Act to appeal and the time within which such right may be exercised.
- (f) Except where a decision is announced at the end of the hearing, it shall be treated as having been made on the date on which a copy of the document recording it is sent to the appellant.
- (g) Where a final decision or order has been made by the Tribunal in respect of any appeal the Tribunal shall cause to be published in a publicly accessible report either the full decision or a summary thereof stating the names of

parties, the nature of the appeal, the decision and the reasons therefore provided that the Tribunal shall have regard to the need to preserve the confidentiality of any evidence heard in private in accordance with these Rules.

Reason for decisions 36. The Tribunal shall give reasons for all its decisions, and each decision shall comprise –

- (i) a summary of the findings of fact made on the evidence adduced;
- (ii) any law or government policy relied on;
- (iii) the reasoning of the tribunal on the facts, policy and law; and
- (iv) the Tribunal's conclusions, directions and orders on the appeal.

Order for costs and 37. (a) Except in respect to a dispute over a business or commercial contract, the Tribunal shall not normally make an order awarding costs and

Expenses expenses, but may, subject to paragraph (2), make such an order –

- (i) against a party, including a party which has withdrawn its appeal or reply, if it is of the opinion that that party has acted frivolously or vexatiously or that his conduct in making, pursuing or resisting an appeal was wholly unreasonable;
- (ii) against a respondent, where it considers that the decision against which the appeal is brought was unreasonable; and
- (iii) in respect to any costs or expenses incurred, or any allowances paid, as a result of a postponement or adjournment of a hearing at the request of a party.

(b) No order shall be made under sub-rule (a) against a party without first giving that party an opportunity of making representations against the making of the order.

(c) Any costs required by an order under this rule to be taxed shall be assessed by the Tribunal.

(d) In respect to a dispute over a business or a commercial contract the rule that costs should ordinarily follow the event will apply unless Tribunal for good cause decides otherwise.

PART VII – MISCELLANEOUS PROVISIONS

Chairman to act for 38. (a) Where expressly authorised by these Rules the Chairman may exercise the powers to be exercised by the Tribunal.

(2) In the event of the death or incapacity of the Chairman following the decision of the Tribunal in any matter, the functions of the Chairman for the completion of the proceedings, including a review of any decision may be exercised by any other person duly acting as chairman of the Tribunal.

(3) The Chairman may delegate to any officer of the Tribunal and of his powers which are not required by the Act to be performed by him personally.

39. The Tribunal may, at its discretion –

(a) if both or all parties to an appeal agree in writing upon the terms on which an appeal or issue should be decided, confirm the agreement reached by such parties and decide accordingly;

(b) at any stage of proceedings before it, by order strike out or amend any notice, reply, supplementary statement or written representation on the grounds that it is scandalous, frivolous or vexatious

(c) at any stage of proceedings before it, by order strike out any appeal for want of persecution;

Provided that, before making any order under paragraph C or D, the Tribunal shall send notice to the party against whom it is proposed that any such order should be made, giving him an opportunity to show cause why such an order should be made.

Correcting
irregularities

40. (1) Any irregularities resulting from failure to comply with any provisions of these Rules or of any direction of the Tribunal before the Tribunal has reached its decision shall not of itself render any proceedings void.

(2) Where any such irregularities comes to the attention of the Tribunal, the Tribunal may (and shall, if it considers that any person may have been prejudiced by the irregularity) give such directions as it thinks just before reaching its decision to cure or waive the irregularity.

(3) Clerical mistakes in any document recording a direction of decision of the Chairman or Tribunal, or error arising in such a document from an accidental slip or omission, may be corrected by the Chairman by certificate under his hand or by the Tribunal.

Proof of documents
and certification
of decisions

41. (1) Any document purporting to be a document duly executed or issued by the Chairman on behalf of the Tribunal shall, unless the contrary is proved, be deemed to be a document so executed or issued as the case may be.

(2) A document purporting to be certified by the Chairman to be a true copy of an entry of a decision on a register kept in pursuance of these Rules shall, unless the contrary is proved, be sufficient evidence of the entry and of matters contained therein.

Service or delivery

42. (1) Any document required or authorised by these Rules to be sent

of documents	<p>or delivered to, or served on, any person shall be duly sent, delivered or served on that person –</p> <p>(a) if it is sent to him at his proper address by registered post or by certificate of posting;</p> <p>(b) if it is sent to him at his email address by electronic transmission or other similar means which produces a document containing a text of the communication, in which event the document shall be regarded as sent when it is received in a legible form; or</p> <p>(c) If it is delivered to him or left with some apparently responsible person at his last known address</p> <p>(2) If a notice of appeal is sent by registered post or certificate of posting, it shall be treated as if it had been received by the addressee seven days following the date on which it is received for dispatch by the Post Office.</p> <p>(3) Any document required or authorised to be sent or delivered to, or served on, an incorporated company or body shall be duly sent, delivered or served if sent or delivered to or served on the director, manager, secretary or clerk of the company or body.</p> <p>(4) The proper address of any person to or on whom any such document is to be sent, delivered or served shall, in the case of any incorporated company or body be that of the registered or principal office of the company or body, in any other case, shall be the last known place of abode or business of that person in question.</p>
Substituted Service	<p>43. If any person to or on whom any document is required to be sent, delivered or served for the purpose of these Rules cannot be found or has died and has no known representative, or is out of Kenya, or if for any other reason service on him cannot be readily effected, the Chairman or the Tribunal may, on application, dispense with service on such person or may make an order for substituted service on that or another person in such other form (whether by advertisement in a newspaper or otherwise) as the Chairman or the Tribunal may think fit.</p>
Language	<p>44. (1) The language of the Tribunal shall be English.</p> <p>Provided that the Tribunal may, at its discretion, allow an appeal lodged in any local language spoken in Kenya by persons or a community directly affected by the subject matter of the appeal, and if such persons or community cannot immediately obtain a translator, undertake to do so within a reasonable time.</p> <p>(2) The Tribunal shall, taking into account all the circumstances, grant the assistance of a competent interpreter free of charge to a party or witness who does not understand or speak the language used at the hearing or who is deaf.</p>

(3) The rulings of the Tribunal shall be prepared in the English language but may be translated, on request by a party, into the Swahili language.

Filing fees 45. There shall be paid to the Tribunal such filing and other fees, including fees for service by the Tribunal of any notice or process, as may be prescribed by the Cabinet Minister in Regulations.

Provided that the Tribunal may, if it considers it to be in the interest of justice, or on the grounds of financial hardship on the part of the appellant waive all or part of the filling fees payable in any appeal.

Prescribed forms 46. The tribunal may from time to time design and issue free of charge such prescribed forms as it may deem necessary for the purposes of filing appeals or replies and for any interlocutory matters

Recording of Proceedings 47. (1) The Chairman shall take or cause to be taken notes of all proceedings before the Tribunal or may order that the record of any proceedings before it shall be taken by shorthand notes or tape recording or, at the discretion of the Tribunal, electronically recorded.

(2) A verbatim record of every hearing shall be made by the Tribunal, and copies of the transcript thereof shall be circulated to all members of the Tribunal and, on request, to any party to the hearing.

SIGNED.....

DATED 2019

CHAIRMAN