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Statutory Instrument No. 86 2024

LAND TRIBUNAL ACT
(Cap. 32:13)

LAND TRIBUNAL REGULATIONS, 2024
(Published on 5th August, 2024)

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IN EXERCISE of powers conferred on the Minister of Justice by section 25 of the Land Tribunal Act, the following Regulations are hereby made —

PART I — *Preliminary*

1. These Regulations may be cited as the Land Tribunal Regulations, 2024. Citation
2. In these Regulations unless the context otherwise requires — Interpretation
 - “appeal” means any appeal against a decision of a public body as defined under section 2 of the Act;
 - “application” means any matter lodged with the Land Tribunal other than an appeal;
 - “cause” includes any action, suit or other original proceeding between the parties;
 - “filing” means to file a document with the Registrar;
 - “interlocutory applications” means proceedings dealing with the rights of the parties in the interval between the commencement of the matter and its final determination;
 - “judgment” includes any decision, decree, determination, finding or order of the Land Tribunal or any court;
 - “Land Tribunal process” means any notice of appeal, notice of referral, notice of action or other notice by which proceedings in the Land Tribunal are initiated or a party is joined in the proceedings, or any order, subpoena, warrant or writ;
 - “Messenger of the Land Tribunal” includes a Deputy Sherriff and any member of the Botswana Police Service;
 - “notice” means a notice in writing;
 - “party” means any person who is a party to the proceedings;
 - “Registrar” has the same meaning assigned to it under the Act;
 - “review” means when a party applies to the Land Tribunal for review of the decision of a public body; and
 - “service” means to serve in accordance with regulation 22.

PART II — *Tribunal Divisions and Officers*

3. There is hereby established, divisions of the Land Tribunal as set out in the first column of Schedule 1. Land Tribunal divisions
4. The Chief Land Tribunal President shall — Duties of Land Tribunal President
 - (a) coordinate adjudication of land disputes;
 - (b) adjudicate over land disputes;
 - (c) prepare and deliver judicial determinations such as orders of the Land Tribunal, rulings and judgments;
 - (d) monitor adherence to orders of superior courts;
 - (e) provide guidance in the management of the Land Tribunal operations;
 - (f) facilitate settlements made out of the Land Tribunal of cases and mediation; and
 - (g) sign records of proceedings.
5. The Land Tribunal President shall — Duties of Chief Land Tribunal President
 - (a) adjudicate over land disputes;
 - (b) direct the proceedings of the Land Tribunal;

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Duties of Land Tribunal member	(c) give direction on questions or matters of law; (d) prepare and deliver judicial determinations such as orders of the Land Tribunal, rulings and judgments; (e) facilitate settlements made out of the Land Tribunal of cases and mediation; and (f) sign records of proceedings. 6. (1) A Land Tribunal member shall — (a) assist on adjudication over land disputes; (b) provide technical input in the areas of land management, real estates, physical planning and related fields during hearing of appeals; (c) provide necessary research for the purposes of judicial determination; and (d) verify records of proceedings. (2) The Land Tribunal President and members of the Land Tribunal shall subscribe to an oath for the execution of their duties as set out under Schedule VIII.
Keeping of register	7. The Registrar shall in accordance with section 20 (4) (c) keep a register containing — (a) the case number of the appeal; (b) the names of the parties and their attorneys or representatives, if any; (c) the nature of the appeal; (d) the date of filing an appeal and notice of appearance to defend, where any; (e) the names of the panel presiding; (f) the date of completion of the appeal; (g) any subsequent proceedings and remarks; and (h) the judicial determination.
Return of service of Land Tribunal processes	8. The return of service of court bailiff and other officers authorised to serve Land Tribunal processes shall be in accordance with Form N as out under Schedule II.

PART III — *Proceedings (Appeals, applications and reviews to the Land Tribunal (originating process))*

Lodgment of appeals	9. (1) Any person who intends to appeal to the Land Tribunal against a decision of a public body shall, within a month from the date on which the appellant becomes aware of the decision of the public body, file a notice of appeal with the Registrar. (2) A notice of appeal under subregulation (1) shall — (a) be in Form A set out in Schedule II; (b) be signed by a party instituting appeal or the authorised representative of the party; (c) contain written reasons on the basis on which the appeal is lodged; and (d) contain clear and concise particulars of the dispute and any material facts on which the matter is based. (3) A party instituting proceedings shall be required to — (a) pay a fee of as set out in Schedule IV; (b) file a copy of the decision complained of; (c) submit names, addresses and contact details of the parties; (d) indicate the district and location of the disputed site;
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- (e) file rough sketch plan or drawings of the disputed site, if any;
- (f) file proof of identification such as *Oman*, certificate of incorporation or Constitution;
- (g) submit proof of title, if any;
- (h) serve notice of appeal stamped by the Registrar or an officer authorised by the Registrar, and all other required documents as outlined above on the other parties to the dispute; and
- (i) file any other relevant documents.

10. (1) A public body may apply to the Land Tribunal for enforcement of its decision by filing a notice of application with the Registrar and by serving notice of application on the other parties to the dispute. Application for enforcement of decision of public body

(2) The provisions of regulation 35, shall apply with necessary modifications to the proceedings for the application for enforcement of a decision of a public body.

11. (1) A party seeking to review a decision of a public body, may apply for review of the decision by filing a notice of motion in Form B set out under Schedule II with the Registrar, and serve copies of the notice on the other parties to the dispute within one month from the date on which the party becomes aware of the decision. Review of proceedings

(2) The grounds of review of a decision of a public body shall be on one or more of the following —

- (a) lack of jurisdiction or *ultra vires*;
- (b) lack of procedural fairness;
- (c) lack of independence or acting under dictation;
- (d) bias or the appearance of bias;
- (e) inflexible application of policy;
- (f) taking into account irrelevant considerations;
- (g) failing to take into account relevant considerations;
- (h) extraneous or improper purpose;
- (i) error in law;
- (j) lack of evidence to support the decision taken;
- (k) bad faith; or
- (l) unreasonableness.

(3) The provisions of regulation 35 shall apply with necessary modifications to the review of the proceedings.

12. (1) A party who fails to file an appeal within a month of becoming aware of the decision in accordance with regulation 14, may apply for condonation of late filing. Application for condonation of late filing

(2) An application under subregulation (1), shall set out the grounds for condonation and state the following —

- (a) the degree of lateness;
- (b) the reason for the late filing;
- (c) nature of the case;
- (d) the prospects of success on the merits;
- (e) any benefit or prejudice to either of the parties should condonation be granted or refused; and
- (f) any other relevant factor.

13. (1) A respondent may, on receipt of notice of appeal —

- (a) file notice of opposition and grounds thereof as provided in Form C as set out under Schedule II within a month of receipt of notice of appeal, application and review; and Notice of opposition and reply

	(b) file all required documents provided under regulation 13 (3). (2) A party intending to reply to the respondent's notice of opposition shall file a reply within 14 days of receipt of respondent's grounds of opposition. (3) A party shall not without leave of the Land Tribunal, file any further statements. (4) The Land Tribunal shall if no leave is sought, close the pleadings seven days after the filing of the last statement under subregulations (1) and (2).
Failure to enter appearance to defend	14. Where a respondent fails to enter an appearance to respond in terms of section 11 (3) of the Act, the Land Tribunal may exercise its discretion as provided for under section 8 (2) (b) and (c) on how the matter shall proceed.
Settlement of matter by arbitration, mediation or conciliation	15. Where the Land Tribunal deems it necessary that the matter be settled by — (a) arbitration, the matter shall be referred to arbitration in terms of section 16 of the Act; or (b) other recognised forms of dispute resolution such as mediation and conciliation, the matter shall be referred to the appropriate forum: Provided the parties to the dispute have agreed.
Tariffs for costs of attorneys	16. The Tariffs for costs of attorneys shall be as set out under Schedule III.
Warrant for civil imprisonment	17. (1) Where the Land Tribunal grants an order for personal attachment and imprisonment in terms of section 19 of the Act, the Registrar shall issue a committal warrant for civil imprisonment addressed to person authorised under section 22 (1) and 23 of the Act and the keeper of a specified prison in terms of Form D as set out under Schedule II. (2) A party may apply to the Land Tribunal for the suspension, variation or discharge of an order or warrant of civil imprisonment. (3) Except where immunity is conferred by any law, a warrant of civil imprisonment may be executed at any place, at any hour on any day except on Sunday, Christmas Day and Good Friday. (4) The Land Tribunal may order the release of a person from civil imprisonment where — (a) the other party consents to the release; or (b) there is compliance with the contravened Land Tribunal order which led to the imprisonment. (5) The release from civil imprisonment under subregulation 4 shall be in Form E as set out under Schedule II.
Contempt proceedings and default of payment of fines	18. Where the Land Tribunal determines that a party or a representative of a public body or any other party to an appeal is liable to pay a fine and there is a default, the Land Tribunal may on its own accord institute contempt proceedings through a notice issued by the Registrar.
Fees payable for services chargeable by the Land Tribunal	19. The fees payable for chargeable services rendered by the Land Tribunal shall be as set out under Schedule IV.
Role of the Registrar on receipt of appeal, application and reviews	20. The Registrar shall on receipt of an appeal, application or review in terms of this Part enter the matter in the appropriate Land Tribunal register and allocate a case number thereof.

PART IV — *Filing and Service of Land Tribunal Documents*

- 21.** (1) A party shall file his or her documents with the Registrar by —
- (a) handing in the original document at the office of the Registrar; or
 - (b) sending a copy to the Registrar by registered post or electronic transmission at the address listed in under Schedule V.
- (2) Where the document is filed by registered post, the date of receipt of the document shall be deemed to be seven days after it was posted unless the contrary is proven.
- 22.** (1) The Registrar's office shall be open every day for filing of documents from 0730 hours to 1245 hours and from 1345 hours to 1500 hours, from Monday to Friday, excluding public holidays.
- (2) Notwithstanding subregulation (1), documents may be filed outside the hours specified if the Registrar so directs.
- (3) Notwithstanding subregulation 18 (2), if a document is filed in any manner other than the physical filing of the document, the date of filing shall be the date on which it is received.
- 23.** (1) For the purpose of calculating any period of time in terms of these Regulations, a day means a calendar day, which shall be calculated by excluding the first day and including the last day.
- (2) Where the last day, for the purposes of the calculation falls on a Saturday, Sunday or Public Holiday, the period ends on the next working day.
- 24.** (1) The documents to be filed or served shall be signed by either the party to the dispute or a duly authorised representative.
- (2) Where proceedings are jointly instituted or opposed by more than one person, documents may be signed by an authorised representative mandated by the other parties to sign documents on their behalf.
- (3) A resolution signed by the parties under subregulation (2), shall be attached to the notice of appeal, application or notice of opposition, as the case may be.
- 25.** (1) Documents that are required to be served on the parties in terms of these Regulations may be served by a court bailiff of the Land Tribunal, either party or any person authorised to serve processes of the Land Tribunal in terms of section 23 of the Act.
- (2) A document shall be served on the other party in any one of the following ways —
- (a) by handing the document to —
 - (i) the party or authorised representative, or
 - (ii) a person who is 16 years old or above at the time of service, in charge of the party's place of residence, business or place of employment.
 - (b) by leaving the document at an address chosen or at any premises in accordance with regulation 22, or
 - (c) by sending the document to the person by —
 - (i) registered post to the last known address or chosen address, or
 - (ii) fax to that person's fax number or any other fax number chosen by the person to receive service.
- (3) A document may be served —
- (a) on a company or other juristic person by handing the document to a responsible employee of the company or juristic person at its registered office or its principal place of business within Botswana or its main place of business within the district in which the dispute arose;

Filing
documents
with RegistrarHours for
filing of
documentsCalculation of
time periodSigning of
documentsService of
documents on
other parties

- (b) on a partnership, firm or voluntary association by handing the document to —
 - (i) a responsible employee or official at the place of business of the partnership, firm or voluntary association,
 - (ii) a partner of the partnership if the partnership has no place of business,
 - (iii) the owner of the firm if the firm has no place of business, or
 - (iv) the chairperson, secretary or member of the controlling body of the association if the association has no place of business;
 - (c) on a public body, by handing the document to the Town City Clerk, Council Secretary, Land Board Secretary, or any official acting on their behalf;
 - (d) on a statutory body, by handing the documents, to any person authorised by its founding statute to institute or defend Land Tribunal proceedings on behalf of the body or any other person authorised by the body to do so;
 - (e) on a public officer by handing it to that officer;
 - (f) on the State by handing the document to the office of the Attorney General; or
 - (g) by any other means authorised by the Land Tribunal.
- 26.** Where any person referred to under regulation 20 is not willing to accept service, the document may be served by attaching it —
- (a) to the main door or gate of the premises concerned; or
 - (b) to any place on or near the premises to which the public has access and the person being served is likely to see it.
- 27.** The Land Tribunal may, where it is not possible to locate a party for the purpose of serving a document, on application, order substituted service to be effected on that party in accordance with Form F set out under Schedule II.
- 28.** A party shall prove that a document has been served by filing affidavit or return of service by a person authorised to serve the document, stating the manner in which the service was effected in accordance with Form G set out under Schedule II.

PART V — *Other Applications*

- 29.** An application in terms of this Part may be brought in terms of notice of motion in Form B set out under Schedule II.
- 30.** (1) This regulation shall apply to an application for the determination of a dispute on urgency basis.
- (2) An urgent application shall be brought by way of written notice of motion to be filed with the Registrar and served on other parties.
 - (3) A notice of motion in terms of subregulation (2), shall contain —
 - (a) the material facts on which the application is based shall be written in a founding affidavit in Form H as set out in Schedule II;
 - (b) the circumstances why the matter is urgent shall be written in the certificate of urgency in Form I as set out in Schedule II;
 - (c) the relief sought shall written in a draft order in Form J as set out in Schedule II;
 - (d) the names, description and addresses of the parties; and

- (e) a schedule listing any documents that may be material and relevant to the application.
- (4) A party opposing an application shall deliver a notice of opposition within seven days of the service of the application to the Registrar and other party.
- (5) A notice of opposition shall —
 - (a) contain a reply to the facts and legal issues stated in the application; and
 - (b) state any other relevant material facts and legal issues in sufficient detail to permit the applicant to reply.
- (6) An applicant may file and serve a replying affidavit within 7 days of the receipt of the notice of opposition.

31. (1) A party bringing an application under regulation 27 may include in the notice of motion an application for an interim order, on grounds of urgency. Application for interim order

- (2) An application for an interim order shall —
 - (a) set out, in the notice of motion, the time, date and place fixed by the Registrar for the hearing of the application for an interim order; and
 - (b) in the affidavit contemplated in regulation 27 (2) state why the dispute is so urgent that it cannot wait to be determined in the ordinary course.
- (3) An applicant shall serve a copy of the application, together with the Registrar's directions, on the respondent as soon as the Registrar has allocated a date, time and place for the hearing.

(4) A party bringing the application shall satisfy the Land Tribunal when the application is heard that a copy of the application has been served on the respondent or that sufficient and adequate notice of the content of the application was brought to that party's attention by other means.

(5) The Land Tribunal shall deal with an application for interim order in any manner it considers appropriate, and may take an order as to costs.

(6) A respondent may anticipate the return date of an interim order on not less than 48 hours' notice to the applicant and the Registrar unless otherwise ordered.

32. (1) This regulation shall apply to — Interlocutory application

- (a) an application for condonation, joinder, substitution, exception, variation or rescission; or
- (b) any other preliminary or interlocutory application or application incidental to any proceedings pending before the Land Tribunal.
- (2) An interlocutory application shall be brought by way of written notice to be filed with the Registrar and served on other parties.

- (3) A notice in terms of subregulation (2), shall contain —
 - (a) the names, description and addresses of the parties;
 - (b) the material facts on which the application is based;
 - (c) the reasons why the interlocutory application should succeed;
 - (d) the relief sought; and
 - (e) a schedule listing any documents that may be material and relevant to the application.

(4) Any party intending to oppose the application shall, within seven days of being served the application, serve notice of opposition to the Registrar and the other party.

- (5) A notice of opposition shall —
 - (i) contain a reply to the facts and legal issues stated in the application, and
 - (ii) state any other relevant material facts and legal issues in sufficient detail to permit the applicant to reply.

(6) An applicant may file and serve a replying affidavit within seven days of the receipt of the notice of opposition.

PART VI — *Pre-hearing Procedure*

Preparation of
Land Tribunal
roll

33. (1) The Registrar shall prepare a Land Tribunal roll prior to issuance of a notice hearing.

(2) The Registrar may consult with the parties or their representatives for suitable dates of a hearing before preparation of the Land Tribunal roll.

(3) The Land Tribunal roll shall contain —

- (a) full names of the parties or their representatives; if any;
- (b) contact details;
- (c) the subject of appeal; and
- (d) date, time and place of hearing.

Notice of
hearing

34. (1) A notice of hearing shall be signed and issued by the Registrar.

(2) A notice of hearing shall contain —

- (a) full names of parties or their representatives if any;
- (b) the subject of appeal;
- (c) the date, place and time of hearing;
- (d) the date when parties are to submit any outstanding documents or information; and
- (e) any other relevant information.

(3) The Registrar shall cause the notice of hearing to be served on all the parties 21 days before the date of hearing.

Heads of
arguments

35. (1) The Land Tribunal may at any time call upon the parties to deliver heads of argument on the main points that they intend to argue within a time as directed by the Land Tribunal.

(2) The heads of argument shall include —

- (a) a chronology of the material facts; and
- (b) a list of authorities referred to in the heads of argument.

Pre-hearing
conference

36. (1) The parties shall hold a pre-hearing conference to deal with matters if directed by the Land Tribunal.

(2) The parties may jointly request the Registrar to call or chair the pre-hearing conference.

(3) The parties may at their own instance conduct a pre-hearing conference.

(4) At a pre-hearing conference, the parties may settle the dispute, or agree on the following —

- (a) the identification of, and method of resolving, any preliminary points;
- (b) facts that are agreed;
- (c) facts that are in dispute;
- (d) the issues for determination by the Land Tribunal;
- (e) the relief sought;
- (f) the discovery and exchange of documents and the manner in which such documentary evidence is to be dealt with;
- (g) admissibility of affidavits;
- (h) the need to call witnesses, identifications and number thereof, including expert witnesses, and the recording and exchange of their statements;
- (i) need for site visits;
- (j) the need for special interpretation such as sign language;
- (k) any steps to be taken which may shorten the hearing or minimise costs; or
- (l) estimated time required for the hearing.

(5) The parties may draw up and sign minutes of the pre-hearing conference and cause a copy to be filed with the Registrar at least three days before the date of the hearing.

37. (1) A party shall afford other parties a reasonable opportunity before the hearing to inspect and make copies of the documents he or she intends to use at the hearing. Production of documents

(2) A party who reasonably believes that the other party is in possession of or has control over relevant documents that have not been listed, may apply to Land Tribunal for an appropriate order.

(3) If no pre-hearing conference is held in terms of regulation 33, the parties shall —

- (a) notify each other of the documents that they intend to use at the hearing; and
- (b) deliver to each other clean and legible copies of the identified documents that are their possession or under their control.

(4) The notice and delivery referred to in subregulation (3), shall take place not less than seven days before hearing.

(5) The Registrar may direct the parties to file a paginated bundle of documents to be used during the hearing.

(6) The Land Tribunal may make any appropriate order, including barring a party from using a document, if it fails to comply with the provisions of this regulation.

PART VII — *Conduct of Proceedings*

38. (1) At the commencement of a hearing, the Land Tribunal shall explain the hearing procedure and the rights of the parties. Hearing procedure

(2) An appellant or applicant shall present his or her case first by oral submissions and may call witnesses if any.

(3) A respondent shall present his or her case by oral submissions and may call witnesses if any.

(4) At the close of the hearing the parties shall make written or oral submissions.

39. Where at any stage of the proceedings, the Land Tribunal President has close relations with any of the parties or has pecuniary or other interests, direct or indirect, in any matter before the Land Tribunal, the President shall recuse himself or herself from the proceedings. Recusal of Land Tribunal President

40. Where at any stage of the proceedings, a member of the Land Tribunal has close relations with any of the parties or has pecuniary or other interests, direct or indirect, in any matter before the Land Tribunal, the member shall disclose the fact to the Land Tribunal President and if the Land Tribunal President so directs, he or she shall refrain from further proceedings. Disclosure of interest

41. (1) The Land Tribunal shall, at the commencement of a hearing, inform the parties of their rights and the correct procedure and in so doing the Tribunal shall have due regard to the interest of any party who is not being advised or represented by a legal practitioner or representative. Rights of parties

(2) A party under subregulation (1) shall have, the right to —

- (a) give evidence under oath or otherwise;
- (b) call witnesses;
- (c) cross-examine the witnesses;
- (d) re-examine witnesses; and
- (e) legal representation or to be assisted by any other person so authorised by that party.

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Language to be used in Land Tribunal	42. (1) The Land Tribunal shall conduct a hearing in official language being English. (2) Where a party or witness to any proceeding does not understand English, the Registrar shall arrange for an interpreter who can speak the language understood by the party or the witness.
Discovery of documents	43. (1) The Land Tribunal may make an order directing the parties to make discovery of documents which are or have been in the possession of either of the parties which they intend to use to prove their case or disprove their opponent's case. (2) Any party to any cause may, without filing any affidavit, apply to the Land Tribunal for an order directing any party to make discovery on oath, of the documents which are or have been in his or her possession or power relating to any matter in question therein.
Witnesses	44. (1) Any party wishing a witness to be subpoenaed shall inform the Registrar at least 14 days before date of hearing. (2) If a party intends to call an expert witness, the party shall give reasonable notice to the other party to the proceedings. (3) The Land Tribunal shall exercise its discretion as provided for in section 8 (2) (b) and (c) of the Act to allow a witness to be subpoenaed within a shorter period. (4) The Land Tribunal may permit the parties under any proceedings before it to adduce evidence by way of an affidavit. (5) The Land Tribunal may at its own instance, order any person or an expert witness to appear before it to give evidence. (6) The Land Tribunal may solicit the opinion of an expert and the Land Tribunal may accept that opinion or any part thereof as evidence in proceedings. (7) A subpoena to be served on a witness attending before the Land Tribunal shall be as in Form K set out under Schedule II. (8) A witness called at the instance of the Land Tribunal shall be entitled to an allowance set out under Schedule VI in terms of section 9 (2) of the Act.
Site visits	45. (1) The Land Tribunal may, at the request of the parties or at its instance, conduct a site visit. (2) The observations at a site visit under subregulation (1) shall be recorded.
Withdrawals and postponements	46. (1) Where a party that initiated proceedings wishes to withdraw the matter, the party shall — (a) file a notice of withdrawal in Form L set out under Schedule II with the Registrar; and (b) serve a copy of the notice on the other party to the proceedings. (2) Where a matter is settled out of the Land Tribunal, the party who initiated proceedings shall notify the Registrar of the settlement within 30 days. (3) Where the parties to the proceedings agree to a postponement of the hearing or to have the matter removed from the Land Tribunal roll, the party initiating the proceedings shall notify the Registrar as soon as possible. (4) The parties to the proceedings may not, without leave of the Land Tribunal, postpone or remove a matter from the Land Tribunal roll within seven days before the date of the hearing. (5) Where a matter is postponed to a date to be determined in the future, any party to the proceedings may apply for it to be re-enrolled.
Default judgment	47. (1) Where the respondent fails to enter appearance to defend within one month the appellant or applicant may apply for default judgment in Form M set out under Schedule II against the respondent.

(2) The Registrar shall on receipt of the application under subregulation (1), place the matter before the Land Tribunal and the Land Tribunal may —

- (a) enter default judgment against the defaulting party;
- (b) refuse judgment; or
- (c) make necessary orders.

(3) If one of the parties fails, without sufficient reason, to prosecute or defend an appeal after being properly notified of the date, time and place thereof, judgment in default may be entered against the defaulting party in terms of section 12 of the Act.

(4) A party whom default judgment has been entered against may apply for rescission of the default judgment within the period specified in the Land Tribunal order.

(5) The Land Tribunal may grant the rescission of the default judgment upon the applicant showing good and sufficient cause.

48. (1) If either party to a matter fails without sufficient reason to prosecute or defend an appeal after being properly notified of the date, time and place thereof, the Land Tribunal may in its discretion dismiss the appeal and strike it off the Land Tribunal roll or adjourn to another date in terms of section 12 of the Act.

Dismissal and striking off

(2) If a matter is struck off the Land Tribunal roll under subregulation (1), the matter may not be re-enrolled without the party who initiated the proceedings filing with the Registrar a satisfactory explanation for the failure to attend the Land Tribunal.

49. (1) A party may at any time of the proceedings enter a settlement or consent of the matter.

Judgment by consent or settlement orders

(2) A party may apply to the Land Tribunal to have the consent to judgment made an order, and the Land Tribunal may make such an order.

50. (1) A party to a matter before the Land Tribunal may at any time during the course of the proceedings apply for remittal of the case and the Land Tribunal may grant the remittal order with appropriate directions.

Remittals

(2) If in the opinion of the Land Tribunal the issues in the case are not clearly well defined to enable it to hear and determine the matter, the Land Tribunal may remit the matter to the public body for reconsideration with appropriate directions.

51. (1) The Land Tribunal may, on its own motion or on application by a party, vary any order granted by it.

Variation of orders

(2) The Land Tribunal may not rescind or vary an order unless all the parties to the proceedings have notice of the proposed order.

52. The Land Tribunal may, where it considers it appropriate —

Land Tribunal's powers on conduct of proceedings

- (a) condone the failure to comply with any rule;
- (b) issue directions for the expeditious and just determination of any matter;
- (c) extend or shorten any period prescribed in these regulations upon application and on good cause shown;
- (d) if a party is incorrectly cited, correct the error or order the substitution of the party;
- (e) grant any order in the absence of a party if it is satisfied that the party has been notified of the date of the hearing;
- (f) order any person to comply with any notice or directive issued in terms of these Regulations;
- (g) deny relief to any party that fails to comply with an order made in terms of these Regulations;

- (h) set aside any irregular step;
- (i) make any appropriate order;
- (j) before judgment is delivered, on its motion or on application by any party, order the re-opening of the case; or
- (k) in the exercise of its powers, act in an appropriate manner to achieve the objectives of the Act, and have regard to the substance rather than the form, subject to any express provision in the Act to the contrary.

PART VIII — *Judgments, Rulings and Orders*

Writing of judgments

53. Where the Land Tribunal has determined a matter, the judgment and the reasons thereof shall be recorded in writing and signed by the Land Tribunal President, delivered in open sitting of Tribunal and copies thereof served on all parties.

Delivery of judgments

54. (1) A party to the proceedings shall be notified of the date, time and place of delivery of judgments.

(2) The Land Tribunal shall after delivering judgment, inform the parties of their right of appeal to the High Court.

(3) Where a party to the proceedings is unable to attend Land Tribunal proceedings for purposes of noting a judgment, the judgment shall be delivered and the Registrar shall cause a copy of the judgment to be sent to such party.

(4) Where neither party attends Land Tribunal proceedings after due notice, the judgment shall be deemed to have been delivered and the Registrar shall cause copies of the judgment to be sent to the parties.

Ex-tempore judgments

55. The Land Tribunal may deliver where appropriate, *ex-tempore* judgment.

PART IX — *Appeals Against Decisions of the Land Tribunal to the High Court*

Role of Registrar on receipt of notice of appeal

56. (1) A party noting an appeal at the High Court against a decision of the Land Tribunal shall serve a notice and grounds of appeal to the Registrar and other parties to the matter.

(2) Upon receipt of the notice and grounds of appeal to the High Court, the Registrar shall —

- (a) cause a record of proceedings to be prepared;
- (b) transmit to the High Court a certified copy of the full record containing the judgment, pleadings, evidence and all other relevant documents within two months of date of receipt; and
- (c) inform parties to the matter about the transmission of the record to the High Court.

Application for stay of execution of Land Tribunal decision

57. A party intending to apply for a stay of execution of a judgment of the Land Tribunal, shall make an application to the Land Tribunal or the High Court.

PART X — *General Provisions*

Costs or expenses

58. (1) The Land Tribunal shall, where it considers it appropriate to do so, award to a party to the proceedings before it, such costs or expenses as the Land Tribunal may determine.

(2) Where the Land Tribunal makes an award of costs or expenses and the parties are not agreeable on the amount or *quantum* thereof, the Registrar shall proceed to tax the costs or expenses in accordance with regulation 60.

59. (1) Where costs or expenses are awarded to any party, the awarded party shall submit a bill of such costs or expenses to the Registrar for taxation at the time and place to be notified by the Registrar.

(2) The Registrar shall thereupon tax and allow the costs and expenses awarded except that witness fees shall not be allowed in taxation unless supported by documentary evidence.

(3) Where one of the parties given notice of taxation fails to appear at the appointed time for taxation, such bill of costs may be taxed in his or her absence and such party shall not be allowed any costs of taxation.

(4) The Registrar shall tax all bills of costs for services actually rendered by an attorney in his or her capacity as such, the Registrar shall nevertheless be guided as far as possible by the scales of fees fixed by the appended tariff except that the Registrar shall not tax costs in instances where some other official is empowered to do so.

(5) During the taxation of any bill of costs the Registrar may call for such books, documents, papers or accounts which in his or her opinion are necessary to enable him or her to properly determine any matter arising upon such taxation.

(6) The Registrar shall, on every taxation, allow all such costs, charges or expenses, as appears to him or her to have been necessary or proper for the attainment of justice, or for defending the rights of any party.

(7) The Registrar shall not allow any costs which appear to have been incurred or increased —

- (a) through over-caution;
- (b) through negligence or mistake; or
- (c) by payment of a special fee to an advocate, or special charges and expenses to witnesses or to other persons or by other unusual expense.

(8) The Registrar shall not proceed to the taxation of any bill of costs unless he or she is satisfied that the party liable to pay has received due notice as to the time and place of such taxation and notice that he or she is entitled to be present.

(9) Notice referred to under subregulation (8), shall not be necessary —

- (a) if the person liable to pay costs has consented in writing to taxation in his or her absence; and
- (b) for the taxation of writ and post-writ bills.

(10) The Registrar shall be entitled, in his or her discretion, to depart at any time from any of the provisions of this regulation in extraordinary or exceptional cases, where strict adherence to such provisions would be inequitable.

(11) In order to minimise as much as possible the costs arising from the copying of documents to accompany the briefs of attorney, the Registrar shall not allow the costs of any unnecessary duplication in briefs.

(12) No fee shall be allowed by the Registrar as between parties for the copying of any document not used at the hearing unless the Land Tribunal otherwise directs.

(13) Where, in the opinion of the Registrar, more than one attorney has been necessarily engaged in the performance of any of the services covered by the tariff, each attorney shall be entitled to be remunerated on the basis set out in the tariff for the work necessarily done by him or her.

(14) The Registrar may grant a party wasted costs occasioned by the failure of the taxing party or his or her attorney or both to appear at a taxation or by the withdrawal by the taxing party of his or her bill of costs.

C.644

Review on
taxation

60. (1) Any interested party may, within seven days after he or she has knowledge of any irregularity relating to —

- (a) the costs and expenses claimed in any undefended action;
- (b) the assessment by the Registrar of any costs and expenses;
- (c) the taxation by the Registrar of any costs awarded in any action or matter; and
- (d) the taxation by the Registrar of any fees or charges of the Messenger of the Land Tribunal, bring such irregularity to the attention of the Land Tribunal for review.

(2) The review shall be on 10 days' notice to the party entitled to receive or liable to pay such costs and expenses or to the Messenger of the Land Tribunal as the case may be, and shall be by way of notice of motion.

(3) The Land Tribunal may make such order as to the costs and expenses of the case as it may deem fit, including an order that the unsuccessful party shall pay to the opposing party a sum fixed by the Land Tribunal as and for costs.

Record of
proceedings

61. (1) The Registrar shall keep a record of —

- (a) the proceedings of the Land Tribunal except when the Land Tribunal directs otherwise;
- (b) any evidence given or submitted in the Land Tribunal;
- (c) any inspection and any matter recorded as a result; and
- (d) any judgment, ruling or orders given by the Land Tribunal.

(2) A record of proceedings shall be by hand written notes, shorthand notes, electronic recording and as the Land Tribunal considers appropriate.

(3) The notes and records of proceedings —

- (a) may be transcribed;
- (b) shall be filed with the Registrar; and
- (c) may be made of the record where the Land Tribunal so directs and on payment of the fee as set out in Schedule III, where a party requests it.

(4) An officer who makes the transcript shall —

- (a) certify that the transcript is a correct record of the proceedings;
- (b) return the notes and recordings from which the transcript was made to the Registrar; and
- (c) certified transcript is presumed to be a correct record of the proceedings unless the contrary is proved.

SCHEDULES

SCHEDULE I

Areas of coverage of divisions of the Land Tribunal
(*reg. 3*)

1. GABORONE DIVISION

AREAS OF COVERAGE

LAND BOARDS

- (a) Kgalagadi Land Board
- (b) Kweneng Land Board
- (c) Ngwaketse Land Board
- (d) Maletse Land Board
- (e) Tlokweng Land Board
- (f) Rolong Land Board
- (g) Kgatleng Land Board

PLANNING AUTHORITIES

- (a) Gaborone City Council
- (b) Lobatse Town Council
- (c) Jwaneng Town Council
- (d) Ramotswa District Council
- (e) Kweneng District Council
- (f) Kgalagadi District Council
- (g) Kgatleng District Council
- (h) Goodhope District Council
- (i) Kanye District Council
- (j) Mabutsane District Council
- (k) Letlhakeng District Council
- (l) Hukuntsi District Council
- (m) Tsabong District Council
- (n) Charleshill District Council
- (o) Ghanzi District Council
- (p) Moshupa District Council
- (q) Tlokweng District Council
- (r) Mogoditshane-Thamaga District Council

2. PALAPYE DIVISION

LAND BOARDS

- Ngwato Land board
- (a) Palapye Sub-Land board
- (b) Maunatlala Sub-Land board
- (c) Mmadinare Sub-Land board
- (d) Mahalapye Sub-Land board
- (e) Shoshong Sub-Landboard
- (f) Paje Sub-Land board

- (g) Sefhare Sub-Land board
- (h) Bobonong Sub-Land board
- (i) Serowe Sub Land board
- (k) Rakops Sub Land board
- (l) Letlhakane Sub Land board

PLANNING AUTHORITIES

- (i) District Council
 - (a) Bobirwa District Council
 - (b) Mahalapye District Council
 - (c) Serowe District Council
 - (d) Palapye District Council
 - (e) Boteti District Council
- (ii) Town Council
 - Selebi-Phikwe Town Council

3. MAUN DIVISION

LAND BOARDS

- (a) Tawana Land board
- (b) Ghanzi Land board
- (c) Chobe Land board

PLANNING AUTHOURITIES

- (a) North West District Council
- (b) Ghanzi Town Council
- (c) Chobe District Council
- (d) Okavango District Council

4. FRANCISTOWN DIVISION

LANDBOARDS

- (a) Ngwato Land board
 - (i) Tutume Sub Land board
 - (ii) Marapong Sub Land board
 - (iii) Tonota Sub Land board
 - (iv) Nata Sub Land board

- (b) Tati Land Board

PLANNING AUTHORITIES

- (a) Francistown City Council
- (b) Sowa Township Authority
- (c) North East District Council
- (d) Central District Council
- (e) Tonota District Council
- (f) Tutume District Council

SCHEDULE II

FORM A
Notice of Appeal
(reg. 9 (2) (a))

In the Land TribunalDivision of the Republic of Botswana held
at.....

Case No.....20.....

In the matter between:

..... Appellant

and

.....Respondent

1. Particulars of the appellant(s)

(a) Name:

.....
.....

(b) Physical Address:

.....

(c) Postal Address:

.....

(d) Telephone or Cell No.:

.....

(e) Email Address:

.....

(f) Preferred address for service of documents in these proceedings:

.....

2. Particulars of the respondent(s)

(a) Name:

.....
.....

C.648

(b) Physical Address:

.....

(c) Postal Address:

.....

(d) Telephone or Cell No.:

.....

(e) Email Address:

.....

(f) Preferred address for service of documents in these proceedings

.....

3. Resolution or decision appealed

.....
.....

4. District, area and Plot No. (if any) in which the dispute arises

.....

5. Grounds of appeal or basis for application.

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

6. Relief sought

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

Signed atthisday of20.....

Appellant

FORM B

Notice of motion
(reg. 11 (1) and 29)

In the Land TribunalDivision of the Republic of Botswana held
at.....

Case No.....20.....

In the matter between

.....Applicant

and

.....Respondent

TAKE NOTICE that application will be made on behalf of the above-named applicant on the
..... day of 20..... at hours or as soon thereafter as
counsel may be heard, for an order in the following terms:

(State relief/remedy sought)

- (a)
(b)
(c)

And that the accompanying affidavit of and
annexures thereto will be used in support thereof.

TAKE NOTICE FURTHER that if you intend opposing this application you are required —
Kindly place the matter on the Land Tribunal roll for hearing accordingly.

Dated atthis.....day of20.....

.....
Applicant's signature and particulars

.....
Address of service

C.650

TO: The Registrar
Land Tribunal

AND TO: Respondent(s)

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

TO: The Registrar
Land Tribunal

AND TO: Respondent(s)

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

N.B: Notice of appeal to be filed in triplicate

FORM C
Notice of opposition and reply
(reg. 13 (1) (a))

In the Land TribunalDivision of the Republic of Botswana held
at.....

Case No.....20.....

In the matter between:

.....Applicant

and

.....Respondent

1. Particulars of the respondent(s)

(a) Name(s):

.....
.....

(b) Physical Address:

.....

(c) Postal Address:

.....

(d) Telephone/Cell No.:

.....

(e) Email Address:

.....

(f) Preferred address for service of documents in these proceedings:

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

2. Respondent's grounds of opposition:

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

C.652

3. Relief sought or remedy:

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

Signed at this day of 20.....

.....
Respondent(s)

TO: The Registrar
Land Tribunal

AND TO: Applicant(s)

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

FORM D
Committal of warrant for civil imprisonment
(reg. 17 (1))

In the Land TribunalDivision of the Republic of Botswana held
at.....

Case No.....20.....

In the matter between
.....Complainant
and
.....Contemnor

IT IS ORDERED THAT:

1. The Messenger of the Land Tribunal arrest/interdict/attach the(contemnor) and safely keep him or her and have him or her brought before the Land Tribunal atam/pm on the day of 20....., then and there to show cause why he should not be interdicted pending judgment/institution of action or he detained to abide the judgment of this Land Tribunal in an action for a sum of P..... to be instituted against him or her by the complainant.
2. That the said action be instituted within 48 hours from the date of this order.

To the Messenger of the Land Tribunal

And to the Officer-in-charge of Prison at.....

These are to command you the said Messenger of the Land Tribunal to take of and deliver him or her to the Officer-in-charge of the Prison at aforesaid together with this warrant there to be safely kept until he shall have paid to of..... (describe the complainant as in the summons) the sum of P..... (part of the sum of P.....) which the said complainant recovered for his or her debt and costs by judgment of this Land Tribunal bearing date the day of 20..... or until the expiration of days from the day on which the said contemnor shall be received into or retained in the said prison by virtue of this warrant whichever of the two shall first happen or until the said contemnor shall be otherwise legally discharged.

By Order of the Land Tribunal

.....
Registrar

C.654

FORM E
Release from civil imprisonment
(reg. 17 (5))

In the Land TribunalDivision of the Republic of Botswana held
at.....

Case No.....20.....

In the matter between
..... Complainant

and
.....Contemnor

WHEREAS the contemnor was, pursuant to the order of the Land Tribunal dated
day of 20..... personally attached and imprisoned pending the payment of a debt
in the sum of P.....

AND WHEREAS the said contemnor has paid the sum of P..... in part/full settlement of
the debt on the day of 20.....

NOW THEREFORE the complainant requires the release of the said contemnor from prison.

Dated at this day of 20.....

.....
Complainant/Attorney

Consent to the release by the Registrar of the Land Tribunal

.....
.....

.....
Registrar

FORM F
Substituted service
(reg. 27)

In the Land TribunalDivision of the Republic of Botswana held
at.....

Case No.....20.....

In the matter between
.....Applicant/Appellant

and
.....Respondent

To, of

TAKE NOTICE that summons has been issued against you in this Tribunal by

....., of (address) for the following
claims:

(a)

(b)

(c)

and that an order has been made that the publication of the notice of such summons shall be
deemed to be good and sufficient service of the summons on you. You are required to enter an
appearance to the summons on or before the day of..... 20....., and,
if you do not do so, judgment may be given against you in your absence.

TAKE NOTICE FURTHER that if you fail to give such notice, judgment may be granted
against you without further reference to you.

DATED at this day of.....20.....

.....
Clerk of the Tribunal

Plaintiff's Attorney

Address for service:

.....
.....

C.656

FORM G
Affidavit of service
(reg. 28)

In the Land TribunalDivision of the Republic of Botswana held
at.....

Case No.....20.....

In the matter between
.....Applicant/Appellant

and
.....Respondent

I the undersigned

..... do hereby make oath
and say that —

1. I am an adult female/male of full legal capacity resident at
2. On the day of.....20....., I served a copy
of.....in this matter onin the following manner:-
.....
.....
.....
3. I did explain to him/her the nature and exigency thereof.

.....
Deponent

FORM H
Applicant's Founding Affidavit
(reg. 30 (3) (a))

In the Land TribunalDivision of the Republic of Botswana held
at.....

Case No.....20.....

In the matter between
.....Applicant
and
.....Respondent

I, the undersigned

(state the names of the person who will sign the affidavit)

Do hereby take oath and swear that:

1. Unless the contrary is expressly stated or the context otherwise suggests, all the matters herein pleaded are within my personal knowledge and information and are true and correct to the best of my information.
2. I am an adult male/female of full legal capacity residing at (state place of residence). My address for purposes of this action is (state the applicant's postal address/ that of the representative of the applicant.)

THE PARTIES

3. The applicant is _____ an adult male/female of full legal capacity residing at (state place of residence). His/her address for the purpose of this action is _____ (state the postal and physical address of the applicant or her representative.)
4. The respondent is (state name of respondent) _____, (a) an adult male/female of full legal capacity residing at (state place of residence), or (b) a company registered under the laws of Botswana. The company's head office is at _____ and the company's address is _____ or (c) a public body. The responsible public body's address is _____.

THE PURPOSE OF THE APPLICATION

5. The purpose of the present application is to seek and obtain an order that:

(Here set out what relief you want from the Tribunal)

THE FACTUAL BACKGROUND

6. _____
(Here, state all the relevant facts of the case. The facts must be divided into paragraphs and must be in order in which they happened. If there are any documents which support your case, they must be indicated in this portion and the documents must be attached to the affidavit)

THE APPLICANT'S COMPLAINTS

7. _____
(Here, state all the complaints which the applicant has against the conduct of the respondent in view of the background of the relevant facts of the case as already outlined e.g. the applicant may complain that the conduct of the respondent is unlawful, or unfair, and the reasons must be stated clearly)

CONCLUSION

8. On the basis of all the foregoing, the applicant prays for an order in terms of the draft order.

Deponent

SIGNED AND SWORN TO BEFORE ME, THE DEPONENT HAVING ACKNOWLEDGED THAT HE/SHE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT.

Commissioner of Oaths

Full names: _____
Rank: _____
Date: _____
Place: _____
Time: _____

FORM I
Certificate of Urgency
(reg. 30 (3) (b))

In the Land TribunalDivision of the Republic of Botswana held
at.....

Case No.....20.....

In the matter between
.....Applicant
and
.....Respondent

TO: The Registrar
Land Tribunal
Private Bag 00211
Gaborone

I, the undersigned,

(Insert the full names of the applicant/applicant's representative)

do hereby certify that:

- a. I am the applicant/applicant's representative in this matter.
- b. All facts state herein are true and correct and within my personal knowledge and those facts not specifically stated to be not within my own personal knowledge are true and correct to the best of my knowledge, information and belief.
- c. I have read and understood the applicant's founding affidavit which is used in support of this application. I certify that this matter is urgent and satisfies the requirements for an urgent application as set out in section ... of the Land Tribunal Act. The reasons why the matter is urgent are set out in paragraphs_____ to _____ of the founding affidavit.

DATED at _____(place) on this _____(insert full date)

The Applicant/Applicant's representative

C.660

FORM J
Draft Order
(reg. 30 (3) (c))

In the Land TribunalDivision of the Republic of Botswana held
at.....

Case No.....20.....

In the matter between
.....Applicant

and
.....Respondent

BEFORE His Lordship/Her Lordship, the honourable judge_____ sitting at
_____ on the _____ day of _____ 20_____.

UPON HEARING the Applicant/Applicant's representative and the Respondent/Respondent's
representative, and having read the documents filed of record:

IT IS HEREBY ORDERED THAT:

1. (Here repeat the relief as stated in the Notice of Motion)

BY ORDER OF COURT

Registrar.

FORM K
Subpoena
(reg. 44 (7))

In the Land Tribunal.....Division of the Republic of Botswana held
at.....

Case No.....20.....

.....Applicant

and

.....Respondent

TO THE COURT BAILIFF

INFORM:

Name of Witness:

Male/Female:

Occupation:

That you are hereby required to appear in person before this Land Tribunal as a witness. That he or she should appear at the LAND TRIBUNAL.....DIVISION-COURT ROOM, on the day of 20..... at..... o'clock in the morning.(am/pm)

AND THEREAFTER to remain in attendance until excused by the said Land Tribunal, in order to testify before the Land Tribunal with regard to all matters within his or her knowledge relating to an action pending before this Land Tribunal and wherein the appellant seeks;

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

AND INFORM him/her that he/she is further required to bring with him/her and to produce to the said Land Tribunal any documents supporting his/her testimony.

AND INFORM the said person further that he/she should on no account neglect to comply with the subpoena as she may thereby render herself liable to a fine and/or imprisonment.

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

.....

Registrar.

TO:

AND TO:.....

AND TO:.....

C.662

FORM L
Notice of withdrawal
(reg. 46 (1) (a))

In the Land TribunalDivision of the Republic of Botswana held
at.....

Case No.....20.....

.....Applicant

and

.....Respondent

TAKE NOTICE that the above-named Applicant hereby withdraws the above action.

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

.....
Applicant /Attorney

To: Respondent/Respondent Attorney.....
And to: The Registrar

FORM M
Application for default judgment
(reg. 47 (1))

In the Land Tribunal.....Division of the Republic of Botswana held
at.....

Case No.....20.....

In the matter between:

.....Applicant/Appellant

and

.....Respondent

The applicant/appellant prays —

- (1) The respondent having been duly served;
- (2) The time for appearance by the Respondent having expired; and
- (3) The respondent not having entered an appearance to defend;
judgment may be entered against the respondent, as claimed in the Notice/Summons,
together with P..... for interest at per cent from
the date of Summons.

Dated this day of20.....

.....
Applicant or Attorney

C.664

FORM N
Return of service
(reg. 8)

In the Land Tribunal.....Division of the Republic of Botswana held
at.....

Case No.....20.....

.....Applicant

and

.....Respondent

I..... hereby certify that I have served this
.....upon the within named applicant/respondent by
delivering a copy to atam/pm on the
.....day of 20.....

At the same time explaining to him/her the nature and exigency thereof.

.....
Signature of serving officer

.....
Signature of applicant/respondent

Date.....

.....
Signature of applicant/respondent

REMARKS.....
.....
.....
.....

SCHEDULE III
Tariffs of fees of attorney
(reg. 16 and 61 (3) (c))

In connection with a bill of costs for services rendered by an attorney, such an attorney shall be entitled to charge, in accordance with the hourly rates at paragraph I of this Schedule, for time taken, where there is no fixed rate for such a service.

A. HOURLY RATES (PARTY AND PARTY SCALE)

Pupil attorney	00 per hour
0.2 year experience	00 – P400 per hour
2-5 years' experience	00 – P500 per hour
5-10 years' experience	00 – P700 per hour
10-15 years' experience	00 – P850 per hour
Over 15 years' experience	00 – P1000 per hour

B. TAKING INSTRUCTIONS

1. To institute or defend evidence or on commission	Time taken by attorney
2. For advice on evidence or on commission	Time taken by attorney
3. For case on opinion, or for advocate's guidance in preparing pleadings, including exceptions	Time taken by attorney
4. For statement of witness	Time taken by attorney
5. To set down cause, issue subpoena or any other simple Instructions	Time taken by attorney
6. To draft a petition or affidavit	Time taken by attorney
7. To note an appeal	Time taken by attorney
8. To prosecute or defend an appeal (exclusive of the perusal of the record)	Time taken by attorney

C. ATTENDANCE AND PERUSAL

1. (a) Any summons, petition, affidavit, pleading, advocate's advice and drafts, report, and important notice or document, per folio for the first 10 folios.....P10
and thereafter per folioP5
(up to a maximum of P2 for all folios).....P5
- (b) Any letter, record, stock sheets in voluntary surrenders, judgments or any other material documents not elsewhere specified, per folio for the first 10 folios.....P5
and thereafter per folio.....P2.50
(up to a maximum of P2 for all folios)

C.666

2. Attending the receipt of and considering any plan or exhibit or other material documents in respect of which the basis of remuneration set out in item 1 of this section cannot be applied – per folio for the first 10 folios.....P2.50

and thereafter per folio..... .P5
(up to a maximum of P25 000 for all folios).....P2.50
3. Making searches in offices of record (per half-hour or part thereof).....Time taken by attorney
4. Sorting out, arranging and paginating papers for pleading, advice on evidence or brief on trial or appeal (per half hour).....Time taken by attorney
5. Attending to give or take discovery (per half hour).....Time taken by attorney
6. Attending or client to obtain particulars of his or her claim and to settle the same.....Time taken by attorney
7. Attending to be speak and thereafter to procure transcription of shorthand notes etc.....Time taken by attorney
8. Other attendances including telephone calls (per half hour).....Time taken by attorney

D. ATTENDANCE (FORMAL)

1. To serve or deliver any necessary document or letter or dispatch any telegram.....P15
2. To sue out any process or file any document.....P15
3. To set down cause for trial.....P7.50
4. To search for any return.....P7.50
5. On receipt, perusing and considering of notice of intention to defend – per folio.....P7.50
6. On advocate, e.g. with folio.....Time taken by attorney
7. On signature of powers of attorney to sue or defend.....P15
8. Other formal attendances, including telephone calls.....Time Taken by attorney

E. DRAFTING AND DRAWING

1. Drafting, instructions for case on opinion for advocates' guidance in preparing pleadings (including further particulars and requests for same) including exceptions.....Time taken by attorney
 2. Drafting instructions to advocate for advice on evidence, for brief on trial or on commission.....Time taken by attorney
 3. Drafting instructions to advocate for argument in respect of all cases of pleading, provided that a fee for drafting instruction on motion, petition, exception or appeal, shall only be allowed at the discretion of the taxing masterTime taken by attorney
 4. Drafting statements of witnesses.....Time taken by attorney
 5. Drawing subpoenas, powers of attorney to sue or defend and formal notices (per folio).....P25
 6. Drafting a petition, affidavit, any notice, except formal notice, summons, further particulars requested and furnished for trial, writs of execution, arrest or attachment and any other important documents not otherwise provided forTime taken by attorney
 7. Letter or telegram (per folio).....P25
and thereafter per folio.....P25

Copy to keep per folio.....P2
 8. Drawing index to brief.....P12.50
 9. Drawing short brief.....Time taken by attorney
- Note 1:** In computing the number of folios of any document referred to in paragraphs 1, 2, 3, 4 and 6 of this section, the taxing master shall deduct, but treat as annexures where relevant, any portions consisting of quotations from other documents and papers.*
- Note 2:** The charges allowed in this section for drafting and drawing does not, except in the case of items 5, 7, 9 and 10, include making the first fair copy which shall be charged for under item 1 of section F of this tariff.*
10. Research, preparation and drafting of heads of argument.....Time taken by attorney

F. APPEARANCE, CONFERENCE AND INSPECTION

1. Attendance by attorney when an advocate is employed in Land Tribunal or before a judge, a commissioner, or referee or at an inspection directed by the judge;

To note judgment only.....Time taken by attorney
otherwise, per hour

2. Appearance by attorney without an advocate before a judge or request by judge, or before a commissioner or referee, per hour.....Time taken by attorney

- 3 (1) Appearance by attorney as counsel in the Land Tribunal, or before a judge, an arbitrator, commissioner or referee or at an inspection directed by the judge;

Maximum fees.....As for advocates

Provided that an attorney shall not be allowed fees both as an attorney and as counsel in respect of the same service.

- (2) Any conference or consultation with advocate with or without witnesses and on pleading including exceptions and particulars to pleadings, applications, petitions, affidavits, testimony and on any other matter which the taxing officer may consider necessary:

Per half hour.....Time taken by attorney

- 4 (1) Any conference or consultation with client, witness or opposite party, and any other conference or consultation which the taking officer may consider necessary:

Per half hour.....Time taken by attorney

- (2) Attending conference in terms of regulation 34

Per half hour.....Time taken by attorney

5. Any inspection *in situ* or otherwise per hour.....Time taken by attorney

6. Evidence: Such just and reasonable charges and expenses as my, in the opinion of the taxing master, have been properly incurred in procuring the evidence and attendance of witnesses whose fees have been allowed on taxation provided that the qualifying expenses of a witnesses shall not be allowed without an order of Land Tribunal or the consent of all interested parties.

Time spent travelling and waiting is to be at the particular attorney's hourly rate, but no travel expenses allowable special trip within the place where the Tribunal is sitting.

G. MISCELLANEOUS

1. Briefing and copying, for making copies for the Land Tribunal, for counselor for attorney, or for service or for any other necessary purposes, the charge shall be per folio.....10 thebe

(including the first copy of any document drafted in respect of which a charge is recoverable under items 2,3,4,5,7 and 9 of section D of this tariff) and for further copies up to 200, per folio and for still further copies, per folio.....P2
2. For making copies of the record in a civil appeal from the magistrates' courts the charge shall be per folio of the first copy, and per folio of all other copies.....P2
3. Drawing up insolvency schedules, including petition, affidavits and relative attendance ad *jurat*.....Time taken by attorney
4. For giving a verbal or written opinion (as between attorney and client).....Time taken by attorney
5. General: Inclusive fee for consultations and discussion with client or advocate not otherwise provided or specially chargedTime taken by attorney

H. BILL OF COSTS

In connection with a bill of costs for services rendered by an attorney, such attorney shall be entitled to charge:

1. For drawing the bill of costs, making the necessary copies and attending settlement, five percent of the first P10, 000 or a portion thereof, two and a half percent of the second P10 000 or a portion thereof, and one percent on the amount excess of P200, 000 of the amount of the attorney's fees, either as charged in the bill if not taxed, or as allowed on taxation.
2. And in addition thereto, if recourse is had to taxation, five percent of the first P10, 000 or portion thereof, and two and half percent of the second P10, 000 or portion thereof and one and a half percent on the amount in excess of P200, 000 of the fees allowed on taxation.

The fee under each item of this section shall be calculated on the same amount.

I. NOMINAL COSTS

In an undefended civil cause, where the judge does not otherwise direct, an attorney may, without tendering any bill of costs for taxation, recover from the party against whom an order for costs has been made, a sum of not exceeding P1, 000 as costs in that cause.....
Provided that the said party may apply in any event to the mast to have the bill taxed.

SCHEDULE IV
Fees payable for chargeable services
(*reg.9 (3) (a) and 19*)

1. Only filing notice or grounds of appeals, originating –
 - (a) Motion or Document or Application..... P50
 - (b) Any other pleading..... P20
2. No fee shall be levied on the document whereby an action or appeal is instituted by a poor litigant
3. Request to inspect any record –
 - (a) If the number of the record is given P10
 - (b) If the number of the record is not given..... P15
 - (c) If a copy of such record is requested per folio..... P5
4. For certifying a copy of a record per folio..... P5
5. When an appellant requires the Land Tribunal to supply typed copies of the record to the High Court on appeal, he or she shall be entitled to the requisite number deliverable to the Register of the High Court on payment of the following fees –
 - (a) for the first five folios or part thereof P5
 - (b) for each subsequent folio..... P2.50
6. (a) A clerk of court who has omitted to take any such fee shall be liable to pay and make good the amount thereof to the Accountant-General.
- (b) Where any dispute arises between the clerk of the court and any persons desiring to lodge any document as to whether the documents is or is not sufficiently stamped the question shall be referred to a judicial officer who shall decide the same in a summary manner.
- (c) The judicial officer's decision shall be final for the purposes of the action or matter in respect of which such document is lodged and shall be discharge the clerk of court under paragraph (a) hereof; but such decision shall be without prejudice to any other rights of any other person.

NOTES: (1) No charge shall be made for the inspection of the record in any case –

- (a) to any party at any time before judgment;
- (b) to any person within seven days after judgement.

SCHEDULE V
Contact Addresses of Land Tribunal Divisions
(reg. 21 (1))

1. GABORONE

PHYSICAL ADDRESS:	Plot No. 21, Khama Crescent, Gaborone
POSTAL ADDRESS:	Private Bag 00211, Gaborone
TELEPHONE NO:	3903388
FAX NO:	3904711
WEBSITE:	www.mlh.gov.bw

2. PALAPYE

PHYSICAL ADDRESS:	Plot No. 1707, 252 Unit 4, Lotsane Complex, Shashane Mall
POSTAL ADDRESS:	P.O. Box 10318, Palapye
TELEPHONE NO:	4920263/5
FAX NO:	4920262
WEBSITE:	www.mlh.gov.bw

3. FRANCISTOWN

PHYSICAL ADDRESS:	Plot No. 252, Khutse Drive Light Industrial
POSTAL ADDRESS:	Private Bag F146, Francistown
TELEPHONE NO:	2411061
FAX NO:	2411061
WEBSITE:	www.mlh.gov.bw

4. MAUN

PHYSICAL ADDRESS:	Plot No. 465, Boseja Ward
POSTAL ADDRESS:	Private Bag 177, Maun
TELEPHONE NO:	6883744
FAX NO:	68863670
WEBSITE:	www.mlh.gov.bw

SCHEDULE VI
Allowances of witnesses
(*reg. 44 (8)*)

Fixed Allowances

1. Working Class Private Sector	P110.00
2. Unemployed	P90.00
3. Minor less than 16 years	P45.00
4. Private Expert Witness	P300.00
5. Skilled workers e.g. a manager with qualifications	P150.00

Travelling Allowances

- (1) When a motor vehicle including a motorcycle or a motor scooter is used
The rates applicable to persons unemployed in the public service as authorised in General Orders.
- (2) When a public conveyance is usedThe actual disbursement.
- (3) When service is effected by means other than (1) and (2)
Rates applicable to persons employed in the public service as authorised in the General Orders.

Subsistence Allowance

- (1) Subsistence allowance shall be paid in addition to travelling allowance at the rate applicable to person employed in the public service as authorised in the General Order per day or part of a day.
- (2) No subsistence allowance shall be allowed when service is effected within the limits of the township or village in which the Land Tribunal is situated.
- (3) A judicial officer may increase the subsistence allowance in any case in which he considers there are special circumstances to warrant such an increase.

Travelling allowance and subsistence allowance may be allowed for attempted service as well as for actual service. When two or more summonses or other process, whether at the instance of the same plaintiff or of different plaintiffs, have been, or in the opinion of the taxing officer, should have been served on one and the same journey, the travelling allowance and subsistence allowance for performing the round of service shall be fairly and equitably apportioned among the several cases, regard being had to the distances at which the parties against whom such process is directed respectively, reside, but the fee for the service shall be payable for every service made or attempted to be made.

SCHEDULE VII
Oaths for officers of the Land Tribunal
(reg. 6 (2))

OATH OF OFFICE

1. FOR THE LAND TRIBUNAL PRESIDENT

I, do swear that I will well and truly serve the Republic of Botswana in the office of and that I will do justice in accordance with the Constitution of Botswana as by law established and in accordance with the laws and usage of Botswana without fear or favour, affection or ill-will.

So help me God.

Thus done and sworn to before me this day of at

.....
REGISTRAR OF THE HIGH COURT

2. FOR A MEMBER OF THE LAND TRIBUNAL

I,the undersigned, do hereby make oath and solemnly declare that I shall discharge my duties as a member of the Land Tribunal to the best of my knowledge and abilities at all times, and shall act within the precincts of the law.

Further, I undertake to perform my work in a fair and impartial manner, without fear or favour and with dedication to the Republic of Botswana, guided by the principles of professionalism and botho.

So help me God

.....

C.674

Thus done and sworn to before me..... this
day ofat

.....
REGISTRAR OF THE HIGH COURT

3. COURT BAILIFF

I, the undersigned do hereby make an oath and
solemnly declare that I shall discharge my duties as a Court Bailiff to the best of my ability and
knowledge at all times, acting within the precincts of the law, in a fair and impartial manner.

So help me God

.....

Thus done and sworn to before me..... this.....
day ofat

.....
Permanent Secretary/President of the Land Tribunal

4. COURT REPORTER

I swear/solemnly and sincerely affirm and declare that I will
faithfully, accurately and to the best of my ability take down in shorthand/cause to be recorded
by electronic means, as directed by the judicial officer, the proceedings in any case in which
I may be employed thereto as an officer of the court and that I will similarly, when required
so to do transcribe the same or any other notes taken by any officer of the court in shorthand/
recorded means.

So help me God

.....

Thus done and sworn to before me..... this
day ofat

C.675

MADE this 11th day of July, 2024.

MACHANA R. SHAMUKUNI,
Minister of Justice.

